BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of:

MICHAEL MELGOZA, Petitioner.

Case No. 1232-A

OAH No. 2024040064

DECISION

On June 27, 2024, a quorum of the Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, State of California (board), heard and decided the Petition for Reinstatement. At the time of this hearing, Michael Hartley was the board's president, and one of the decision-makers during the closed session deliberations. As such, he will sign this decision in his former capacity.

Administrative Law Judge Mary Agnes Matyszewski, Office of Administrative Hearings (OAH), State of California, presided over the administrative proceeding.

Michael Melgoza, petitioner, appeared and represented himself.

Deputy Attorney General Amie Flynn appeared on behalf of the Office of the Attorney General, State of California, as authorized by Government Code section 11522.

On June 27, 2024, oral and documentary evidence was received, the record was closed, and the matter was submitted and decided in Executive Session.

FACTUAL FINDINGS

Jurisdictional Matters

LICENSE HISTORY

1. On December 19, 2017, the board issued Civil Engineer License No. C 88047 to petitioner. As detailed below, that license was revoked in 2020 pursuant to a default decision.

DISCIPLINARY HISTORY

2. On May 28, 2020, the board's executive officer in his official capacity filed an accusation against petitioner, *In the Matter of the Accusation Against Michael Melgoza,* Case No. 1232-A. The allegations in the accusation arose out petitioner's submission of three fraudulent documents to the City of Long Beach in which he falsely claimed his license had been issued one year earlier than when it was issued. Petitioner did so in an attempt to obtain a promotion that required more experience than he held at the time. The altered documents included a purported letter from the board with an inaccurate date of licensure; a purported email from the board containing an inaccurate date of licensure; and a wall certificate of licensure purportedly signed by the board president who was not the president when the document was allegedly signed, which also had an inaccurate date of licensure. By submitting these false documents to the City of Long Beach, petitioner misrepresented

his qualifications to his employer. The accusation also sought the costs incurred to investigate and prosecute the matter.

3. Despite being properly served, petitioner did not respond to the accusation. A Default Decision and Order (decision) was issued revoking his license effective September 24, 2020. The decision determined petitioner violated Business and Professions Code section 6775, subdivisions (b) [deceit, misrepresentation, or fraud in his practice] and (h) [violating laws related to the practice of professional engineering]. Although the decision found that the board incurred investigation and prosecution costs of $2,412.50, the order only revoked petitioner's license. Costs were not awarded.

PETITION FOR REINSTATEMENT

4. On January 30, 2024, petitioner filed a Petition for Reinstatement of Revoked License.

5. On April 29, 2024, the board's Enforcement Program Manager filed a Request to Set at OAH, and this hearing followed.

Evidence Presented at Hearing

6. Petitioner attached a narrative statement and a letter of reference to his petition, and both he and his current employer, Alex Janecek, testified in this proceeding. The factual findings are based on those documents and that testimony.

7. In his narrative statement, petitioner wrote that he was employed as a Construction Project Manager with Graves Construction after his license was revoked. In that capacity, he led their tenant improvement programs. He recently "left that

company willingly and in good standing to continue developing my career with CPM Partners, Inc., as a Construction Manager." Petitioner wrote further:

> I understand that this narrative is not meant to argue my revocation, however, I would like to briefly elaborate on my lapse in judgment that resulted in this disciplinary action, as I believe it [*sic*] important in this determination.
>
> At the time of the revocation, I worked at the agency for over 10 years in a classification that did not require a [Professional Engineer] license. I did, however, regularly performed [*sic*] job functions that were defined under a classification that did require a [Professional Engineer] license. I was very excited when I finally earned my [Professional Engineer] license and was ready to fill the classification that I was well-qualified for. At this agency, promotional opportunities don't come along very often, and when one did I was very eager to apply for it. There was one problem that I learned a little too late; the position required the applicant to have held a [Professional Engineer] license for two years prior to accepting the position. Because of this, I made very poor judgment call [*sic*] to alter my certificate and I was selected for the position based on my experience, qualifications, and this altered certificate. This was the basis of the disciplinary action.

> My license revocation was due to a lapse of judgment, and is not a representation of my character. When my license was revoked, I accepted responsibility for my actions and accepted the disciplinary action that was imposed by the Board without argument. Since then, I've had a lot of time to self-reflect on my career, the hard work it took to earn my license, all the friends, mentors and family I let down, and the trust I need to earn again from the Board; I can assure you that something like this will never happen again.
>
> Since the revocation, I have maintained employment in the same industry, have not had any gaps in employment and have continued to advance my career with promotions and increasing responsibility. Despite the three-year setback, I am now ready for the next step in my career which does require a [Professional Engineer] license. I am fully transparent with my employers and they understand the situation well. My current supervisor is a licensed [Professional Engineer] and I have known him for over 12 years. He has provided me with a letter to support this petition, attached. In addition, I can quickly provide additional references and/or supporting letters from [Professional Engineer] license colleagues, if needed.

The narrative statement then contained contact information for petitioners two employers.

8. Mr. Janecek, Professional Engineer License No. C 80579, Vice President, CPM partners, Inc., wrote a letter in support of petitioner's reinstatement, dated January 27, 2024. Mr. Janecek has known petitioner since 2011 at which time he worked with petitioner "on large and complex projects at the Port of Long Beach." Petitioner was employed by the Port "as a construction manager and successfully led multiple projects that were completed under budget and on time." Mr. Janecek has "kept in close contact with [petitioner] over the years" and "can attest to his character." Mr. Janecek wrote further:

> I am fully aware of the situation that led to his license revocation, and I can say with full confidence that this was a one-time lapse in judgment; and our professional colleagues feel the same way. [Petitioner] was highly regarded by his colleagues at the Port and instrumental in successfully delivering projects while there. He was also very highly regarded by his more recent employer, Graves Construction.
>
> [Petitioner] is very intelligent, hard-working, honest, and very personable. Recently, [petitioner] and I discussed the ability to petition his revocation in 2023, and the possibility of him returning to the professional services side of our industry. Shortly after this, despite his license revocation, we immediately hired him as a construction manager. We are excited to have [petitioner] on our team and are looking forward to seeing his career continue to develop.

> We respectfully request that you consider this letter in your determination to reinstate [petitioner's] license and we thank you for your time.

9. Petitioner's testimony is summarized as follows: he did not come before the board to deny what he did; he admits his actions and took the consequences. In fact, the reason he did not respond to the accusation was because he had no defense to his actions. It was not until recent discussions with other individuals that he learned there was a possibility to petition for reinstatement, which is why he filed his petition. He should have been more patient and waited the requisite time required rather than altering records which he described as a "one-time lapse in judgment." He explained that the City of Long Beach changed its requirements from one year to two years' experience for the position to which he applied, and he thought it was a "victimless crime" to alter the documents. He now realizes there is no such thing as a victimless crime, and he ruined a 13-year successful career he had with the City of Long Beach because he had to resign. He lost "lots of great friendships," broke the code of ethics, and went against all that he had been raised to do by his parents, which is to act ethically. He lauded his parents, especially his father, for keeping him on the right path and stressing the importance of education. He recognizes that his actions violated all of the good values his parents taught him when he "didn't do it the right way." He described the great disappointment he felt in himself and that his parents felt, which he never again wants to experience.

Petitioner further explained his actions by describing feeling jealous of others whom he felt were less qualified but were getting promotions, and he allowed those feelings to control his actions. He knows what he did was wrong, and has used his experience as an example to others to encourage them to do the ethical and honest

thing. He described a friend whom he mentors, and how his influence has positively impacted her. He also makes sure others with whom he works make ethical decisions and he tells others to make honest choices. Petitioner has also attended therapy to take care of his mental health, especially given the impact the COVID pandemic has had on people's mental health and emotions. He wants to ensure that he is his best self. Petitioner also described how he now looks to others for feedback, including his supervisors, to make sure he is making ethical decisions.

Petitioner described the multimillion dollar jobs he successfully supervised for the City of Long Beach, and how he was "on track to be Employee of the Year" when this incident occurred. He believes he could have remained there until retirement had he not submitted the false documents. Although he lost that job, he remained in the industry where he has been a construction manager, most recently with CPM. He has done well in his career and gotten good reviews from his supervisors. He acknowledged he did not submit any documents in support of that testimony but "could get it" if the board needed him to do so. He has also remained in contact with many former colleagues from the City of Long Beach, even though he does feel shame for his actions. Petitioner admitted he has not taken any type of ethics course, but is amenable to doing so if the board so requires.

Petitioner's testimony was sincere, genuine, and heartfelt. It is highly unlikely he would ever repeat his actions.

10. Mr. Janecek's testimony is summarized as follows: He has known petitioner for 11 years; they initially met when Mr. Janecek was a consultant for the Port of Long Beach. In that role, petitioner actually supervised Mr. Janecek. He was highly complimentary of petitioner's ethics and skills, describing the fraudulent acts as a "one-time lapse in judgment." Mr. Janecek and his wife own CPM, they are both

licensed professional engineers, with 12 full-time and three or four part-time employees, including two other licensed engineers. The company performs construction management for public entities, including Caltrans and the City of San Diego. Mr. Janecek presently employs petitioner and will continue to do so even if the petition is denied; he has no financial incentive to support the petition. Mr. Janecek described the excellent work petitioner does for CPM and the "minimal supervision" he requires. Mr. Janecek pays for continuing education for his employees and would support petitioner taking an ethics course if one was required. Mr. Janecek was also amenable to offering ethics courses to all of his CPM employees. Mr. Janecek described the great pride he takes in his company and his desire to do nothing to jeopardize his company's reputation. He holds himself and his employees to high ethical standards. Mr. Janecek explained that if he thought employing petitioner would jeopardize his company's ethics or reputation, he would not have employed him.

The Attorney General's Position

11. The Attorney General noted that petitioner's actions that led to the revocation of his license were deceitful and dishonest, but asserted that petitioner demonstrated he appreciated the severity of his actions. The Attorney General also noted that it had been four years since petitioner's license was revoked, and the Attorney General had "no concerns" should petitioner's license be reinstated.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Business and Professions Code 6780, subdivision (b)(3), states in part: "The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition."

2. In a proceeding for the restoration of a license, the burden at all times rests on petitioner to prove that he has rehabilitated himself and is entitled to have his license restored, and not on the board to prove to the contrary. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.)

3. A person seeking reinstatement is not in the position of an untried newcomer, but a fallen licentiate. Under the circumstances, it is not unreasonable for the board to be exacting in its requirements as to proof of reform. The pertinent issues are the person's activities since revocation and his present qualifications, ability and learning. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.)

4. A person seeking reinstatement bears a heavy burden of proving rehabilitation. And it must be sufficient to overcome the board's former adverse determination. (*Housman, supra* at 315-316.) The standard of proof is clear and convincing evidence. (*Id.* at p. 316.)

Applicable Code Sections

5. Business and Professions Code section 6710.1 states:

> Protection of the public shall be the highest priority for the Board for Professional Engineers, Land Surveyors, and

> Geologists in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

6. Business and Professions Code section 6780, subdivision (a)(3), permits an individual to petition the board for reinstatement after a minimum of three years has elapsed from the effective date of the decision revoking the license. Subdivision (b) requires the board to notify the Attorney General of the filing of the petition, and gives the petitioner and the Attorney General an opportunity to present both oral and documentary evidence and argument to the board. Subdivision (d) authorizes the board to grant or deny the petition or impose any terms and conditions it reasonably deems appropriate as a condition of reinstatement.

Applicable Regulations

7. California Code of Regulations, title 16, section 418, subdivision (e), sets forth the rehabilitation criteria for the board to consider on a petition for reinstatement and states:

> (e) When considering a petition for reinstatement of the certification of an engineer-in-training or a land surveyor-in-training, the license of a professional engineer or a professional land surveyor, or the authority to use the title "structural engineer" or "geotechnical engineer," the Board shall evaluate evidence of rehabilitation submitted by the petitioner, including but not limited to the following:

(1) Educational courses, including college-level courses, seminars, and continuing professional development courses, completed after the effective date of the Board's decision ordering revocation.

(2) Professional engineering or land surveying work done under the responsible charge of a license holder in good standing or under the responsible charge of a person legally authorized to practice.

(3) Payment of restitution to the consumer(s) by the petitioner.

(4) Actual or potential harm to the public, client(s), employer(s), and/or employee(s) caused by the action(s) that led to the revocation or that could be caused by the reinstatement of the license.

(5) The criteria specified in subdivision (d)(1) through (8), as applicable.[1]

(6) Disciplinary history, other than criminal actions, after the revocation.

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[1] This section refers to other rehabilitation criteria to consider if the underlying discipline was the result of a crime or conviction, which was not applicable here.

(7) Recognition by the petitioner of his or her own actions and/or behavior that led to the revocation.

(8) Correction of the petitioner's actions and/or behavior that led to the revocation.

8. California Code of Regulations, title 16, section 419 states in part:

For violations of Business and Professions Code sections 6775 . . . [which resulted in revocation] the following provisions shall apply to disciplinary orders contained in decisions of the Board:

(a) The minimum disciplinary order shall be reproval. The maximum disciplinary order shall be revocation of the license.

(b) If warranted by extenuating and/or mitigating factors in the matter, the disciplinary order may be stayed by an express condition that the [petitioner] comply with probationary conditions. The minimum time period in which the [petitioner] shall have to comply with the conditions shall be two years. For purposes of this section, this time period shall be known as the "period of probation."

(c) All decisions containing stayed disciplinary orders as described in subdivision (b) shall include the following probationary conditions:

(1) The [petitioner] shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

(2) The [petitioner] shall submit such special reports as the Board may require.

(3) The period of probation shall be tolled during the time the [petitioner] is practicing exclusively outside the state of California. If, during the period of probation, the [petitioner] practices exclusively outside the state of California, the [petitioner] shall immediately notify the Board in writing.

(4) If the [petitioner] violates the probationary conditions in any respect, the Board, after giving the [petitioner] notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an accusation or petition to vacate stay is filed against the [petitioner], or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

(5) Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the [petitioner's] license shall be unconditionally restored.

Subdivision (d) contains the terms that may be ordered, which include requiring petitioner to successfully complete a board-approved ethics course.

Evaluation

9. Contrary to petitioner's and his witness's testimony that petitioner had one "lapse in judgment," petitioner's actions were premeditated, and involved him altering three board documents. His acts were highly egregious and demonstrated deceit and dishonesty. That being said, petitioner expressed appropriate remorse for his actions and his assurances that he would never again act in such an unethical manner appeared genuine and sincere. On this record, reinstating petitioner's license, and putting it on probation with terms and conditions, including a requirement that he successfully complete a board approved ethics course, satisfies public protection.

ORDER

The Petition for Reinstatement filed by Michael Melgoza is granted. Civil Engineer License No. C 88047 is reinstated, the reinstated license is immediately revoked, the revocation is stayed, and petitioner is placed on probation for a period of two (2) years subject to the following terms and conditions:

SEVERABILITY CLAUSE - Each condition of probation set forth hereafter is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other conditions and applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. ETHICS COURSE – Within one (1) year from the effective date of the decision, Petitioner shall successfully complete an ethics course that is pre-approved by the board. Petitioner shall incur all costs associated with the course.

2. OBEY ALL LAWS - Petitioner shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

3. SUBMIT WRITTEN REPORTS - Petitioner shall submit such special reports as the Board may require.

4. TOLLING OF PROBATION - The period of probation shall be tolled during the time petitioner is practicing exclusively outside the state of California. If, during the period of probation, petitioner practices exclusively outside the state of California, petitioner shall immediately notify the Board in writing.

5. VIOLATION OF PROBATION - If petitioner violates the probationary conditions in any respect, the Board, after giving petitioner notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an accusation or petition to vacate stay is filed against petitioner, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

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6. COMPLETION OF PROBATION - Upon successful completion of all of the probationary conditions and the expiration of the period of probation, petitioner's license shall be unconditionally restored.

This Decision shall become effective on *August 29, 2024*.

IT IS SO ORDERED on *June 27, 2024*.

Original Signed

BOARD FOR PROFESSIONAL ENGINEERS,

LAND SURVEYORS, AND GEOLOGISTS

Department of Consumer Affairs

State of California

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MICHAEL MELGOZA** 6342 Malabar Street Huntington Park, CA 90255 **Civil Engineer License No. C 88047** Respondent.	Case No. 1232-A **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 28, 2020, Complainant Richard B. Moore, PLS, in his official capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, filed Accusation No. 1232-A against Michael Melgoza (Respondent) before the Board for Professional Engineers, Land Surveyors, and Geologists. (Accusation attached as Exhibit A.)

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2. On or about December 19, 2017, the Board for Professional Engineers, Land Surveyors, and Geologists (Board) issued Civil Engineer License No. C 88047 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 1232-A and will expire on March 31, 2022, unless renewed.

3. On or about June 11, 2020, Respondent was served by Certified and First Class Mail copies of the Accusation No. 1232-A, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Board. Respondent's address of record was and is: 6342 Malabar Street, Huntington Park, CA 90255.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505(c) and/or Business and Professions Code section 124.

5. Government Code section 11506(c) states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. The Board takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 1232-A.

7. California Government Code section 11520(a) states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent . . . .

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 1232-

A, finds that the charges and allegations in Accusation No. 1232-A, are separately and severally, found to be true and correct by clear and convincing evidence.

9. The Board finds that the actual costs for Investigation and Enforcement are $2,412.50 as of July 16, 2020.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michael Melgoza has subjected his Civil Engineer License No. C 88047 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board for Professional Engineers, Land Surveyors, and Geologists is authorized to revoke Respondent's Civil Engineer License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Bus. and Prof. Code section 6775(b) – Deceit, Misrepresentation, or Fraud in Practice

b. Bus. and Prof. Code section 6775(h) – Violation of Law Related to the Practice of Professional Engineering

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ORDER

IT IS SO ORDERED that Civil Engineer License No. C 88047, issued to Respondent Michael Melgoza, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on *September 24, 2020*.

It is so ORDERED *August 20, 2020*

Original Signed

FOR THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS

63435455.DOCX
DOJ Matter ID:LA2020600209

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
STEPHANIE J. LEE
Deputy Attorney General
State Bar No. 279733
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6185
Facsimile: (916) 731-2126
Attorneys for Complainant

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against**:** **MICHAEL MELGOZA** 6342 Malabar Street Huntington Park, CA 90255 **Civil Engineer License No. C 88047** Respondent.	Case No. 1232-A **ACCUSATION**

PARTIES

1. Richard B. Moore, PLS (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists (Board), Department of Consumer Affairs.

2. On or about December 19, 2017, the Board issued Civil Engineer License Number C 88047 to Michael Melgoza (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2022, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

5. Code section 6775 states, in pertinent part:

> The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional engineer licensed under this chapter and make findings thereon.
>
> By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer licensed under this chapter on any of the following grounds:
>
> . . .
>
> (b) Any deceit, misrepresentation, or fraud in his or her practice.
>
> . . .
>
> (h) A violation of any provision of this chapter or any other law relating to or involving the practice of professional engineering.

REGULATORY PROVISIONS

6. California Code of Regulations, title 16, section 475 states, in pertinent part:

> To protect and safeguard the health, safety, welfare, and property of the public, every person who is licensed by the Board as a professional engineer, including licensees employed in any manner by a governmental entity or in private practice, shall comply with this Code of Professional Conduct. A violation of this Code of Professional Conduct in the practice of professional engineering constitutes unprofessional conduct and is grounds for disciplinary action pursuant to Section 6775 of the Code. This Code of Professional

Conduct shall be used for the sole purpose of investigating complaints and making findings thereon under Section 6775 of the Code.

. . .

(c) Representations:

(1) A licensee shall not misrepresent his or her qualifications to a prospective or existing client or employer.

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

STATEMENT OF FACTS

8. On December 19, 2017, Respondent was issued Civil Engineer License Number C 88047 by the Board. Respondent had no prior licensure with the Board.

9. On August 27, 2019, a representative of the City of Long Beach Civil Service Department contacted the Board regarding Respondent, an employee of the City of Long Beach (City). Respondent had submitted documents to the City that showed a license issuance date different from the issuance date noted on Respondent's license profile on the Department of Consumer Affairs website.

10. On August 28, 2019, the Board interviewed the representative, who stated that the City of Long Beach Human Resources Department had recently met with Respondent, who was seeking a promotional job opportunity that required at least two years of experience after licensure.

11. The representative provided the Board with copies of documents that Respondent had submitted to the City in relation to this job opportunity, including the following:

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a. A letter from the Board, allegedly dated November 18, 2016, notifying Respondent that he had successfully met the qualifications for licensure. The letter allegedly noted Respondent's license issuance date as November 17, 2016.

b. An email from the Board, allegedly dated November 18, 2016, notifying Respondent that he was granted licensure. The letter allegedly noted the expiration date for Respondent's license as March 31, 2017.

c. A wall certificate of licensure, signed by "Eric C. Johnson, P.E. – Board President," allegedly stating Respondent's license issuance date as November 17, 2016.

12. These documents were false and fraudulently altered. Respondent, in submitting these false and fraudulently altered documents to the City, made misrepresentations to his employer regarding his qualifications.

13. The Board's own records revealed:

a. The true copy of the letter from the Board notifying Respondent that he had successfully met the qualifications for licensure was actually dated December 20, 2017 and showed the actual license issuance date of December 19, 2017. Respondent's fraudulently altered copy was falsely dated November 18, 2016 and showed a false license issuance date of November 17, 2016.

b. The true copy of the e-mail from the Board notifying Respondent that he was granted licensure was actually dated December 20, 2017 and showed the actual license expiration date as March 31, 2018. Respondent's fraudulently altered copy was falsely dated November 18, 2016 and showed a false expiration date of March 31, 2017.

c. The Board had issued a wall certificate to Respondent on December 19, 2017. This was the only wall certificate ever issued to him. On December 19, 2017, the Board president was Eric C. Johnson, and any wall certificate issued on that date would bear Mr. Johnson's signature. On November 17, 2016, the Board president was Coby King, and any wall certificate issued on that date would bear Mr. King's signature. Respondent's fraudulently altered copy showed a false issuance date of November 17, 2016 and the signature of Mr. Johnson, rather than Mr. King.

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FIRST CAUSE FOR DISCIPLINE

(**Deceit, Misrepresentation, or Fraud in Practice**)

14. Respondent is subject to disciplinary action under sections 6775, subdivision (b), in conjunction with the California Code of Regulations, title 16, section 475, on the grounds that on or about August 27, 2019, Respondent engaged in deceit, misrepresentation, or fraud in his practice. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 8 through 13, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(**Violation of Law Relating to the Practice of Professional Engineering)**

15. Respondent is subject to disciplinary action under sections 6775, subdivision (h), in conjunction with the California Code of Regulations, title 16, section 475, on the grounds that on or about August 27, 2019, Respondent committed a violation of the Professional Engineers Act or law relating to or involving the practice of professional engineering, when he misrepresented his qualifications to a prospective or existing employer. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 8 through 13, as though set forth fully herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers, Land Surveyors, and Geologists issue a decision:

1. Revoking or suspending Civil Engineer License Number C 88047, issued to Michael Melgoza;

2. Ordering Michael Melgoza to pay the Board for Professional Engineers, Land Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/28/20

Original Signed

RICHARD B. MOORE, PLS
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
Department of Consumer Affairs
State of California
Complainant

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