

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BLDG. 69-2
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:	:	
	:	
	:	
STEPHEN MASLAN,	:	DBR No. 13DP109
<i>RESPONDENT.</i>	:	
	:	

DEFAULT JUDGMENT AND DECISION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: March 4, 2014

Appearances: For the Department of Business Regulation: Neena Sinha Savage, Esq.

For Respondent: No appearance by Respondent or counsel.

I. INTRODUCTION

This matter was assigned to the undersigned Hearing Officer on January 22, 2014, pursuant to an Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer (“Order”) regarding Stephen Maslan (“Respondent”) requiring Respondent to appear before the Department and answer why the Director of the Department of Business Regulation (“Department”) should not issue an order denying the Respondent’s application to renew his Professional Engineer Registration (“renewal application”).

The filing of Department’s Order was precipitated by a recommendation from the Rhode Island State Board of Registration for Professional Engineers (“Rhode Island Board”) that the Respondent’s renewal application be denied based upon information contained in Consent Agreements from the states of Missouri and Oklahoma and concerning past disciplinary actions taken against the Respondent in a number of other states.

Though the Respondent engaged in correspondence with counsel for the Department regarding this matter, he failed to appear at the show cause hearing held at the Department on March 3, 2014, after having been duly served with notice of the hearing in accordance with the provisions of R.I. Gen. Laws § 42-35-9.

II. EVIDENCE PRESENTED

On the date of hearing, Counsel for the Department submitted documents which were marked as full exhibits, and which included:

- i) February 24, 2014 letter and Disciplinary Order from the State of Missouri indicating that the Respondent's engineering license was revoked, and that revocation was stayed pending completion of five year's probation, and subject to a number of conditions. (See Exhibit "A", attached hereto and made a part hereof by reference.)
- ii) Copies of email correspondence between counsel for the Department and Respondent, exhibiting that the Respondent was aware of the pending Order to Show Cause and the scheduled hearing date.
- iii) Consent Order between Respondent and the Oklahoma State Board of Licenses for Professional Engineers reporting that his Oklahoma engineering license was to be suspended for two years, beginning on July 12, 2013. (See Exhibit "B", attached hereto and made a part hereof by reference.)
- iv) Letter dated June 24, 2013 from the Respondent with enclosures reporting that the State of Missouri had placed his engineering license in "lapsed status" at his request, in lieu of holding a full show cause hearing.
- v) July 31, 2012 Final Order from the Kansas State Board of Technical Professions suspending the Respondent's engineering license in that state, and imposing a twenty-five thousand dollar (\$25,000) fine. (See Exhibit "C", attached hereto and made a part hereof by reference.)
- vi) Respondent's Biennial Renewal Application received by the Rhode Island Board on July 8, 2013.

III. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws §§ 5-8-1 *et seq.*, 5-84-1 *et seq.*, 42-14-1, *et seq.*, and § 42-35-1, *et seq.*

IV. FINDINGS OF FACT

After hearing the arguments of counsel, and due consideration of the evidence presented by the Department in this matter, the undersigned Hearing Officer makes the following findings of fact:

1. Respondent filed a renewal application dated July 8, 2013 to the Rhode Island Board which disclosed that he had been the subject of formal disciplinary action related to his license to practice professional engineering in the states of Kansas, Missouri and Mississippi.
2. On or about August 8, 2013, the Rhode Island Board obtained additional information indicating that:
 - a. On July 31, 2012, the State of Kansas placed Respondent on probation for two years and imposed a \$25,000 fine for violating his probation relative to a charge of unlicensed architecture activities in Missouri.
 - b. On or about March 30, 2013, the State of Missouri issued a Disciplinary Order revoking Respondent's engineering license due to his violation of a disciplinary action of November 6, 2009.
 - c. On or about February 1, 2013, the State of Mississippi placed Respondent's engineering license in "lapsed status" at the Respondent's choice, in lieu of facing a formal show cause hearing and denial.
 - d. On or about July 12, 2013, the State of Oklahoma entered into a Consent Order with the Respondent which imposed a \$3,000 penalty, an order to complete additional engineering education, a reprimand for the violations alleged against him and which suspended his engineering license for two years from the date of the Order.

3. In Respondent's July 8, 2013 renewal application, he acknowledged the disciplinary actions outlined in paragraphs 2(a) through 2(d) above, but failed to disclose other disciplinary actions filed against him in the states of New Hampshire, North Carolina, Kentucky, Indiana, Georgia, Wisconsin, Colorado and/or Virginia which had been referenced in the Oklahoma Consent Order of July 12, 2013.
4. Upon review of the evidence presented against the Respondent at hearing, it is clear that he has been the subject of disciplinary actions based on gross negligence, incompetency, and/or professional misconduct related to his provision of engineering services in approximately nine (9) or more other states, resulting in suspension or revocation of the right to practice engineering in those jurisdictions.
5. In at least two (2) of the aforementioned jurisdictions, including the State of Rhode Island, the Respondent has been untruthful and dishonest with the boards of professional licensure during the application or investigation process by failing to report disciplinary actions which had taken place in numerous other jurisdictions.
6. The Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer was duly served upon the Respondent, and he acknowledged service of same to the Department through its Counsel by electronic mail.

7. The Respondent failed to appear at the hearing on March 4, 2013, and failed to present a formal defense to the allegations contained in the Order to Show Cause.
8. The Rhode Island Board and the Department have complied with the requirements of R.I. Gen. Laws §§ 42-35-9 and 5-5-18 regarding notice in contested cases, and the Respondent was afforded an opportunity for a hearing after reasonable notice but waived that right by failing to appear.
9. Based on the documentary evidence submitted at hearing, and based on Respondent's failure to appear, there are adequate grounds to enter an Order defaulting the Respondent.
10. Based upon the facts as set forth in this section, the actions of the Respondent constitute violations of R.I. Gen. Laws §§ 5-18 (b)(2), (7), (9) and (11).

V. CONCLUSIONS OF LAW

1. There is sufficient cause to permanently revoke the engineering license and certificate of registration held by the Respondent pursuant to R.I. Gen. Laws § 5-8-18 based on the evidence submitted by the Department at hearing.

2. There is sufficient cause to order public censure and reprimand against the Respondent pursuant to R.I. Gen. Laws § 5-8-18.


3. A default judgment against Respondent is appropriate given his failure to appear and/or defend this action pursuant to R.I. Gen. Laws §§ 42-6-8, 42-35-9 and Section 21 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*.

VI. RECOMMENDATIONS

Based on the above analysis, the Hearing Officer recommends that the Director of the Department Order that:

1. The Respondent is defaulted for his failure to appear and/or defend this administrative enforcement action;
2. Respondent's certificate of registration and license to practice engineering in the State of Rhode Island is revoked.
3. Respondent shall be publicly censured and reprimanded by the publication of this Decision and its exhibits in whatsoever manner the Department and the Board of Registration for Professional Engineers deems appropriate.

DATED: 3/18/14


Ellen R. Balasco, Esq.
Hearing Officer

ORDER

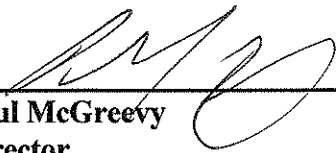
I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

MODIFY

Dated: 19 March 2014

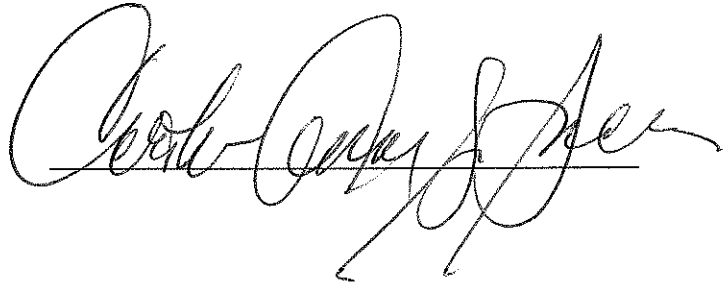

Paul McGreevy
Director

ENTERED as Administrative Order No. 14-11 on the 19th day of March, 2014.

THIS ORDER OF DISMISSAL CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-1 ET SEQ. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.

CERTIFICATION

I hereby certify that on the 19th day of March, 2014, a true copy of this Default Judgement and Decision was sent by first class mail, postage prepaid to: Stephen P. Maslan,, Stephen P. Maslan & Company, 8011 Paseo, Kansas City, Missouri 64131, and by electronic mail to the following parties at the Department of Business Regulation: The State Board of Registration for Professional Engineers, Lois Marshall, Administrative Assistant, and Neena Sinha Savage, Esq.

A handwritten signature in black ink, appearing to read "Stephen P. Maslan", written over a horizontal line.

represented by Assistant Attorney General Edwin Frownfelter. See page 5 of the transcript. Respondent was present at the hearing, and was represented by counsel, Emily Fretwell. See page 5 of the transcript.

Each member of the Board who participated in this decision certified that he or she had read the probation violation complaint. See pages 5-6 of the transcript.

FINDINGS OF FACT

1. The Board is an agency of the State of Missouri created and established pursuant to § 327.031, RSMo, for the purpose of administering and enforcing the provisions of Chapter 327, RSMo, as those provisions relate to the practice of architecture, professional engineering, professional land surveying, and landscape architecture. § 327.041, RSMo.

2. Respondent was licensed by the Board as a professional engineer, license number E-020397, which license is on probation as a result of a settlement agreement between the Board and Maslan, entered on October 22, 2009. See Exhibit C and pages 8 of the transcript. Maslan did not timely renew his license by December 31, 2012 as required by the 2009 Order. See pages 8, 9, 14-15 of the transcript. Maslan did renew his license on March 15, 2013. See pages 8, 15 of the transcript.

3. On October 22, 2009, the Board and Maslan agreed that Maslan's professional engineering license would be disciplined based upon authority to do so under the provisions of Chapter 327 and a Settlement Agreement between Maslan and the Board and a Consent Order issued by the Administrative Hearing Commission that became effective on November 6, 2009. See Exhibit C and pages 8, 14-15 of the transcript.

4. Maslan's attorney conceded in opening statement that Maslan violated the terms of the 2009 settlement agreement by failing to renew in a timely manner in 2012 and by being disciplined in the state of Kansas. See pages 9-11. In that opening statement Maslan's counsel requested that the Board allow Maslan to continue practicing engineering and only assess the additional discipline by extending his probation. See page 11 of the transcript.

5. The Kansas State Board of Technical Professions on July 17, 2012 disciplined Maslan's Kansas professional engineering license for sealing fire alarm systems in two projects that contained a significant number of deviations from applicable codes and that his conduct constituted gross negligence, incompetence, and misconduct. See Exhibit D and pages 13-14 of the transcript.

6. Maslan's secretary testified that she thought she had renewed his license in a timely fashion in late 2012. She mailed the renewal with a check in October, 2012. The check she sent did not clear the checking account and was never cashed. See pages 17-18 of the transcript.

7. Maslan testified that he and the Board entered into a settlement agreement in 2009 that required him to timely renew his professional engineering license and that he failed to timely renew in 2012. See pages 22-23 of the transcript. He explained that the failure of his secretary to timely renew the license may have been the result of her waiting to complete the renewal form and send it to the Board until she received approval of the continuing education hours required to be taken by licensees in order to renew. See page 23 of the transcript.

8. Maslan testified that he should have called the Board's Executive Director in 2012 to make sure the Board had received his check, but failed to do so. See page 24 of the transcript.

9. Maslan testified that he was disciplined by the state of Kansas while on probation in Missouri and that the Board can assess additional discipline as a result of the Kansas discipline. See pages 25-26 of the transcript.

10. Maslan submitted a copy of a letter he wrote the Alabama board explaining the circumstances that led to the Kansas discipline. See Exhibit 1 and pages 26-27 of the transcript.

11. Maslan presented his view as to why he did not appear at the Board meeting in May, 2013. See pages 28-30 of the transcript. The Board's Executive Director also testified as to conversations she had with Maslan regarding his scheduled hearing in May 2013. See pages 46-50 of the transcript.

12. Maslan presented letters of recommendation from clients of his. See Exhibit 2 and page 30 of the transcript.

13. Maslan agreed that the Board had authority to further discipline his license but asked that such discipline be limited to probation. He explained the importance of keeping his professional engineering license. See pages 31-33 of the transcript.

14. Maslan's attorney requested that she be given the opportunity to supplement the record regarding the accounting procedures at Maslan's office in 2012 and how checks for renewal of Maslan's license were tracked. See pages 42-43. Maslan's attorney submitted two affidavits to the Board, which the Board has included in its record of this hearing and which it has made part of the records in its deliberations.

15. In her closing argument counsel for Maslan conceded that cause existed for additional discipline of Maslan's license. See pages 52-53 of the transcript. She suggested that the Board should lengthen the probation but not revoke Maslan's license. See page 53 of the

transcript. She asked that the Board consider the impact a revocation would have on Maslan and his family and urged the Board to continue the probation. See page 54 of the transcript.

CONCLUSIONS OF LAW

16. The Board has jurisdiction over this proceeding in that the complaint presents a case in which the Board must determine whether or not licensee has violated a condition or conditions of discipline. Section 324.042, RSMo as amended, *State Board of Registration for the Healing Arts v. Masters*, 512 S.W.2d 150, 160-61 (KC App. 1974).

17. Respondent's conduct is in violation of the terms of discipline set forth in the 2009 settlement that imposed probation for five years, subject to specified terms.

18. The settlement entitles the Board to take such disciplinary action as the Board deems appropriate if respondent fails to comply with its terms.

19. Failure to comply with terms and conditions of the settlement entitles the Board to impose such additional or other discipline it deems appropriate.

20. The findings of fact show cause for this Board to impose such disciplinary actions as this Board deems appropriate.

21. The Board may impose additional discipline on Maslan's license because of the provisions in Exhibit C and due to the provisions of Section 327.441.2(8) RSMo.

DECISION AND ORDER

THEREFORE, having carefully and fully considered all the evidence presented at the hearing before the Board, and giving full weight to the Findings of Fact and Conclusions of Law, it is the Decision of the Missouri Board of Architects, Professional Engineers, Professional Land

Surveyors and Landscape Architects that respondent's professional engineering license is REVOKED. However, the Board stays the revocation of Maslan's license and places it on probation for a period of five years, commencing on the date of this Order, and continuing until February 23, 2019, subject to the following conditions:

During the probationary period, Maslan shall be entitled to engage in the practice of professional engineering, provided that he adheres to all the following terms and conditions:

- A. During the probationary period, Maslan shall timely renew his license, timely pay all fees required for licensure, and comply with all other Board requirements necessary to maintain his license in a current and active state.
- B. During the probationary period, Maslan shall keep the Board apprised at all times in writing of his current addresses and telephone numbers, both personal and professional. Maslan shall notify the Board in writing within ten days of any change in this information.
- C. During the probationary period, Maslan shall comply with all provisions of Chapter 327, RSMo (as amended), all rules and regulations of the Board and all federal and state laws, rules and regulations. "State" here includes the State of Missouri and all other states and territories of the United States.
- D. During the probationary period, Maslan shall appear before the Board or one of its representatives for a personal interview upon the Board's request.
- E. During the probationary period, Maslan shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Order.

- F. Maslan shall submit written reports to the Board no later than January 1, April 1, July 1, and October 1 of each year of the probationary period, stating truthfully whether there has been compliance with all the conditions of this Order. It is Maslan's responsibility to ensure that the reports are submitted by the dates set forth above.
- G. Maslan shall submit to the Board no later than January 1, April 1, July 1, and October 1 of each year of the probationary period, a list of all engineering projects that he has worked on during the preceding three month term. Each project shall be identified by date, client, and a brief description of the project and Maslan's involvement or input. Maslan shall submit copies of any sealed documents and any other relevant information to the Board upon request. Maslan shall submit all notes, calculations, time records, and any other documentation used in performing the project to the Board upon request. If no work is completed during the reporting period, Maslan must so advise the Board in writing in the same time-frame and manner as set forth above in this paragraph. It is Maslan's responsibility to ensure that the lists are submitted by the dates set forth above.
- H. Maslan may only practice professional engineering in the areas of demonstrated competence, which the Board has determined are only structural and civil engineering.

In the event the Board determines that Maslan has violated any term or condition of this Order, the Board is entitled to hold an evidentiary hearing, in accordance with the provisions of Chapter 536, RSMo. After the evidentiary hearing, the Board, in its discretion, may vacate and

set aside the discipline imposed and may suspend, revoke, or otherwise lawfully discipline Maslan.

If at any time during the probationary period Maslan ceases to provide professional engineering services in the State of Missouri for longer than three months at a time, ceases to be currently licensed under the provisions of Chapter 327, RSMo, or fails to keep the Board advised of his current place of business and residence, the time of his inactivity, or unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed.

If the Board determines that Maslan has violated a term or condition of this order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning such violation.

Upon the expiration and successful completion of the disciplinary period, Maslan's license to practice professional engineering shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that Maslan has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing held by the Board, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Maslan.

This Decision and Order shall be maintained as an open and public record of the Board, as provided in Chapters 327, 610 and 324 of the Missouri Revised Statutes.

Missouri Board for Architects, Professional Engineers,
Professional Land Surveyors and Landscape Architects
3605 Missouri Boulevard
Jefferson City, Missouri 65109

Dear Board:

On this _____ day of _____, 20____, I, _____
(name of licensee)

hereby truthfully state that I have been in full compliance with the terms and conditions of my probation including the following which I have initialed to indicate my compliance:

- _____ 1. Timely renewed all licenses, paid fees and maintained my license in a current and active status.
- _____ 2. Abided by all provisions of Chapter 327, RSMo, and all corresponding rules and regulations, and all federal and state laws, rules and regulations, "state" meaning all states and territories of the United States.
- _____ 3. Appeared and testified when requested by the Board.
- _____ 4. Notified the Board within 10 days of any address or telephone number changes.
- _____ 5. Complied with unannounced visits from the Board's duly authorized agent to monitor compliance.
- _____ 6. Have reported my discipline and/or current status of discipline to my employer. (If self-employed, not applicable.)
- _____ 7. Complied with requests for projects requested by the Board.
(Please check one of the below boxes.)

A list of the projects requested is attached to this compliance form stating for each project: (1) inception date; (2) client; (3) project and description; and, (4) extent of my involvement; OR,

I have not done any work in Missouri during this reporting period.

Signed: _____

Print Name: _____

License No. _____

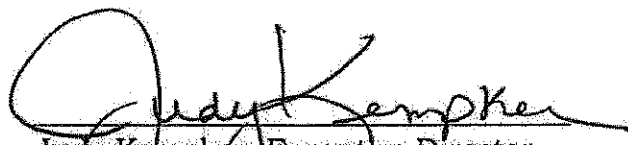
Additional comments:

CERTIFICATE OF SERVICE

On this 24th day of February, 2014, I hereby certify that a true and complete copy of the foregoing Disciplinary Order of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects with Findings of Fact and Conclusions of Law was forwarded via Certified Mail/Return Receipt Requested #7009 2250 0001 4911 9660 and U.S. Mail to Stephen P. Maslan, 8011 Paseo, Kansas City, MO 64131.

On this 24th day of February, 2014, I hereby certify that a true and complete copy of the foregoing Disciplinary Order of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects with Findings of Fact and Conclusions of Law was forwarded via U.S. Mail to Emily Fretwell, legal counsel for Mr. Stephen P. Maslan, Bandre' Hunt & Snider, LLC, 227 Madison Street, Jefferson City, MO 65101.




Judy Kempker, Executive Director
Missouri Board for Architects,
Professional Engineers,
Professional Land Surveyors and
Landscape Architects

The Board further orders the Executive Director of the Board to direct a copy of this Findings of Fact, Conclusions of Law and Disciplinary Order, to respondent and his attorney in the name of and on behalf of the Board and to affix the seal of the Board hereto.

SO ORDERED this 24th day of February 2014. This Order is effective immediately.

**MISSOURI BOARD FOR ARCHITECTS,
PROFESSIONAL ENGINEERS,
PROFESSIONAL LAND SURVEYORS AND
LANDSCAPE ARCHITECTS**

By: Judy Kempker
Judy Kempker, Executive Director



BEFORE THE OKLAHOMA STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

STATE OF OKLAHOMA *et al.* OKLAHOMA)
STATE BOARD OF LICENSURE FOR)
PROFESSIONAL ENGINEERS AND LAND)
SURVEYORS,)

FILED

APR 12 2013

OKLA. BOARD OF LIC. FOR
PROF. ENGRS. & LAND SURVEYORS

Complainant,

vs.

Case No. 2013-027

Name: Stephen Phillip Maslan)
Certificate of Licensure No.: P.E. No. 12955)
Address: 8011 Paseo Blvd., Suite 201)
Kansas City, MO 64131)

Respondent.

CONSENT ORDER

COMES NOW the Complainant, Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors (the "Board") and the Respondent, Stephen Phillip Maslan ("Maslan").

FINDINGS OF FACT

For the purposes of the entry of this Consent Order, the following facts are hereby stipulated to by the parties and adopted by the Board:

STATEMENT OF FACTS COMMON TO ALL COUNTS

It is alleged that Respondents have violated 59 O.S. § 475.1 *et seq.* and the Board Rules (OAC § 245:2 *et seq.*) as follows:

1. On October 22, 2009, Maslan entered into a Settlement Agreement with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects for placing his Professional Engineer's Seal on documents that consisted

of the practice of Architecture which constituted Incompetence and Gross Negligence. Maslan was placed on probation for five (5) years beginning November 6, 2009 and ending on November 5, 2014.

2. On March 23, 2010, as a result of the Missouri Settlement Agreement, the Oklahoma State Board of Licensure for Professional Engineer and Land Surveyors issued a Letter of Caution to Maslan and informed him to use greater care to avoid any repetition of such activity.

3. On September 24, 2010, the Kansas State Board of Technical Professions entered into a Settlement Agreement and Consent Order with Maslan for the 2009 violations in Missouri, which constituted violations of the laws of the State of Kansas. In the Settlement Agreement and Consent Order with Kansas, Maslan was placed on probation until such time as he had successfully completed the probation requirements set forth in the 2009 Missouri Settlement Agreement.

4. On July 17, 2012, while Maslan was on probation in Kansas, the Kansas State Board of Technical Professions issued a Final Order against Maslan for practicing outside the area of his field of practice, because the plans he signed and sealed and submitted to the City of Salina, Kansas for a remodel/expansion permit on two (2) projects were lacking the basic/fundamental information for a fire alarm system.

5. Expert testimony indicated there were twenty-one (21) deviations from established engineering standards and practices for designing plans and specifications for fire alarm systems. The twenty-one (21) deviations constituted gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of any technical professions.

6. Maslan was placed on two (2) years probation and was ordered to pay fees and expenses in the amount of \$5,270.54.
7. Because Maslan was on probation in Kansas at the time of the July 17, 2012, Kansas disciplinary action, the fees and expenses were increased to a total of \$25,000.00.
8. On August 27, 2012, Maslan renewed his Oklahoma Certificate of Licensure on-line and certified that he had been disciplined in other jurisdictions. Such on-line certification requires that documentation regarding the disciplinary action taken be furnished to the Board within 30 days from renewal date.
9. Maslan did not include, in his on-line renewal materials, within thirty (30) days of his on-line renewal, documentation regarding disciplinary action taken in Missouri, Kansas, New Hampshire, North Carolina, Kentucky, Indiana, Georgia and Wisconsin.
10. On April 12, 2013, the Board requested, via certified and regular mail, a detailed explanation of the facts surrounding the July 17, 2012 Kansas disciplinary action for gross negligence, incompetency, misconduct or wanton disregard for the rights of others, current status of his Kansas P.E. license, and a complete list of all other jurisdictions that he is licensed in, including copies of any and all disciplinary actions taken against him in those other jurisdictions.
11. On April 29, 2013, Maslan provided copies of disciplinary actions from Kansas, Wisconsin, Indiana and Missouri, but failed to provide copies of the disciplinary actions taken in Kentucky, Colorado, New Hampshire, North Carolina and Virginia until a later time.
12. On May 30, 2013, the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects revoked Maslan's Certificate of

Licensure for violating the terms of his probation by being disciplined in Kansas. Maslan failed to appear before the Missouri Board for the May 30, 2013 disciplinary hearing.

COUNT I

The Allegations contained in the Statement of Allegation/Charges Against Respondent above are incorporated herein by reference.

13. Maslan has been found guilty of violating the laws and rules of Kansas and Missouri, in which the violations are the same or substantially equivalent to the Oklahoma Statutes and Rules.

14. Maslan is therefore guilty of violating the provisions of 59 O.S. § 475.1 and 475.18(A)(4)(S) and OAC § 245:15-23-2(b) by violating the laws of Kansas and Missouri, wherein the violations were the same or substantially equivalent to Oklahoma Statutes and Rules, and is therefore, subject to the Administrative Penalties set for in 59 O.S. § 475.20(b) and OAC § 245:15-23-3 and 18.

COUNT II

This Count is hereby dismissed with prejudice.

CONCLUSIONS OF LAW

15. The Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors has jurisdiction of this case pursuant to:

- a. Statutes Regulating Professional Engineering and Land Surveying, 59 O.S. § 475.1 *et seq.*
- b. The Rules of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors, OAC § 245:15, *et seq.*

16. Respondent was properly notified of the charges, and acknowledged his right to counsel.

17. Respondent has made no objection to the timeliness of the notice or to the specificity of the statement of charges.

18. The Findings of Fact stipulated to by Respondent constitute violations of the Statutes Regulating Professional Engineering and Land Surveying and the Rules of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors, pertaining to the professional practice of land surveying upon which the Board may take disciplinary action against Respondent.

CONSENT

Stephen Phillip Maslan, by affixing his signature hereto, acknowledges that:

19. Respondent has been specifically advised to seek the advice of counsel prior to signing this Consent Order, and

20. Respondent understands this Consent Order is subject to the approval of the Board and has no force and effect until a final decision based upon it is rendered by the Board.

21. Respondent acknowledges that he has the following rights, among others:

- a. The right to a formal fact finding hearing before the Board;
- b. The right to reasonable notice of said hearing;
- c. The right to compel the testimony of witnesses;
- d. The right to cross-examine witnesses against themselves;
- e. The right to obtain judicial review of the Board's decisions; and,
- f. The right to counsel.

22. Respondent waives all such rights to a formal hearing as set forth above in paragraph twenty-three (23).

23. Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board members, Board Staff and Board Counsel. These discussions may include the Board's review of any and all previously enumerated exhibits or referenced project materials. Respondent understands that this discussion will take place at the Board's next regularly scheduled meeting in Oklahoma City, Oklahoma. Respondent understands he has the right to be present when this matter is discussed, but hereby waives that right.

24. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

25. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to other challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the final decision of the Board incorporating said Consent Order.

26. This Consent Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise. The final order shall be effective and deemed issued when signed. A faxed or scanned-executed copy of this agreement shall be sufficient and the same as if the original signed document.

27. Respondent consents to the entry of this Consent Order.

ORDER

In accordance with the foregoing findings of facts and conclusions of law, and the agreement and consent of the Respondent, it is hereby ordered as follows:

28. Maslan should be and hereby is found guilty of the charges set forth in Count I of the Formal Notice of Charges, because he violated the laws of Kansas and Missouri, wherein the violations were the same or substantially equivalent to Oklahoma Statutes and Rules, and he is therefore, subject to the Administrative Penalties set for in 59 O.S. § 475.20(b) and OAC § 245:15-23-3 and 18.

29. In accordance with 59 O.S. § 475.20(B) and OAC §§ 245:15-23-3 and 15-23-18, Maslan is hereby assessed an administrative penalty in the total amount of Three Thousand Dollars (\$3,000.00) as and for the violations set forth in Count I above, which shall be paid within thirty (30) days from the date of the entry of this Consent Order.

30. In accordance with 59 O.S. § 475.20(B) and OAC §§ 245:15-23-3 and 15-23-18, Maslan is hereby **REPRIMANDED** as and for the violations set forth in Count I above.

31. The license to offer or provide engineering services of any type or nature in the State of Oklahoma, by virtue of Maslan's Professional Engineer's Licensure No. 12955, is hereby **SUSPENDED** for a period of two (2) years from the date of this order.

32. Maslan is further ordered to complete the on-line Intermediate Studies in Engineering Ethics course offered by the National Institute for Engineering Ethics at Texas Tech University, and provide written proof of successful completion of said course, prior to applying

for re-licensure at the end of the two (2) year suspension. The hours for the Engineering Ethics course are not applicable for inclusion within the PDH requirements for 2013, 2014 or 2015.

33. Maslan may apply for re-instatement of his OK PE License No. 12955 at the completion of the two (2) year suspension provided he has completed all the terms of the 2012 Kansas order, not been disciplined in any other jurisdiction, that is not reciprocal to the 2009 and 2012 Missouri orders, 2010 and 2012 Kansas orders or this Oklahoma order, and has complied with all other terms of this order.

DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. § 24-A.1 through 24-A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection, publication, and copying upon request.

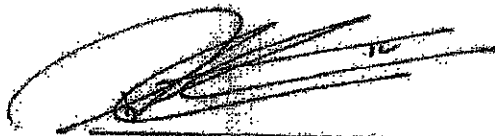
By: 
Stephen Phillip Mustan

Date: 7/10/13

CERTIFICATION OF BOARD ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors and the State of Oklahoma for the violations as alleged in the Formal Notice of Charges.

Dated this 11 day of July, 2013.



Robert A. Manchester, IV OBA #19518
4200 Perimeter Center Drive, Suite 160
Oklahoma City, OK 73112
(405) 525-6710
(405) 528-5366 (Fax)

Attorney for Oklahoma State Board of
Licensure for Professional Engineers
and Land Surveyors

ORDER OF THE BOARD

NOW on this 12 day of July, 2013, Respondent has admitted voluntarily, with knowledge of his rights under law, the allegation contained in Count I and of the Formal Notice of Charges. It further appears that the foregoing Consent Order is just and equitable in order to safeguard life, health, and property, and to promote the public welfare in the State of Oklahoma.

IT IS THEREFORE ORDERED that the Respondent's stipulation to the violation contained in Count I and of the Formal Notice of Charges are accepted and the above Consent Order incorporated herein shall be the order of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

Dated this 12 day of July, 2013.

OKLAHOMA STATE BOARD OF
LICENSURE FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

By:



George T. Gibson, Chair

BEFORE THE KANSAS STATE BOARD OF TECHNICAL PROFESSIONS
Landon State Office Building
900 S.W. Jackson, Suite 607
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 Bolin
Jean Bolin, 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

Jean Bolin
On behalf of the Board