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**BEFORE THE STATE BOARD FOR PROFESSIONAL ENGINEERS**

**IN THE MATTER OF:**

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**JOHN KEENAN**

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**Agency Case No.: 16-PE-24**

**Respondent**

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**AGREEMENT AND CONSENT ORDER**

This Agreement and Consent Order ("Agreement") is entered into this 21<sup>st</sup> day of July, 2017, made by and between the State Board for Professional Engineers, (the "Board"), and John Keenan, (the "Respondent"). The Board and the Respondent (together, the "Parties") consent to the entry of the Agreement as the final resolution of the matter discussed below. The terms of the Agreement are contractual and not mere recitals.

1. Pursuant to the Maryland Professional Engineers Act (the "Act"), Title 14, Sections 14-101 *et seq.*, Business Occupations and Professions Article ("BOP"), Maryland Code Annotated, the Board is responsible for licensing and regulating persons who provide or offer to provide professional engineering services in the State of Maryland.
2. At all times relevant to this case, the Respondent was duly licensed under the Act as a professional engineer under License No. 29910.
3. On or about April 11, 2016, pursuant to its authority under BOP Section 14-206, the Board commenced an investigation of a complaint filed by Wallace Montgomery & Associates, LLP, ("WMA") with the Board that alleged that the Respondent, while working as a

professional engineer for WMA violated his responsibilities of due diligence and care, among other things, in performing his duties to conduct a hands-on inspection of the Warren Road Bridge (the "Bridge"), located over the Loch Raven Reservoir in Baltimore, Maryland.

4. The Board's investigation of the complaint determined the following:

(i) The Respondent was one of four engineers assigned by WMA to conduct the visual inspection of the Bridge and complete a written inspection report based on their findings. The report was to be submitted to the City of Baltimore, Department of Transportation. In January of 2015, the inspection report for the Bridge was completed and submitted on behalf of WMA to the City of Baltimore. The report was signed by the Respondent, among others.

(ii) On March 23, 2016, WMA was advised by the City of Baltimore that an inspection of the Bridge had been conducted by URS and a report issued on March 21, 2016 with their findings and that as a result of the URS report, the Bridge had been closed by the City of Baltimore. In the 2016 report, URS concluded that, although there was no belief that collapse or failure of the overall structure was imminent, there was excessive deterioration of several stringers that support the deck of the Bridge.

(iii) On or about March 25, 2016, WMA became aware that in conducting the inspection and drafting the report submitted to the City of Baltimore in January 2015, the Respondent did not take new photographs of the Bridge, but incorporated old photographs of the Bridge from a prior report without disclosing that the photographs were not taken in the course of the Respondent's most recent inspection, and further, that the visual inspection the Respondent conducted of the floor-beams of the Bridge was through the grid deck rather than rigging under the Bridge as is standard practice in the industry.

(iv) On March 31, 2016, WMA terminated the Respondent from the company and on or about April 11, 2016, filed this complaint with the Board regarding the Respondent's actions.

5. Based on the investigation of the complaint, the Board determined there was sufficient evidence to support charges against the Respondent for, among other things, a violation of the Act, Section 14-317(a)(1)(iv) BOP, Maryland Code Annotated.

6. Prior to issuing the charges and scheduling a hearing on the charges and recommended sanctions for the violations, the Respondent and the Board agreed to resolve this matter through the execution of this Agreement.

7. The Respondent wishes to resolve this matter in the most expedient and cost-effective manner possible and as a result accepts the Board's finding of a violation of Section 14-317(a)(1)(vi) and COMAR 09.23.03.03A.

8. Respondent waives his right to the issuance of charges and a hearing on charges at which time he would have the opportunity to defend against the charges and sanctions, and his right to appeal the final decision of the Board and this Order.

9. The Parties agree that the Agreement shall be binding upon them and enforceable in a court of competent jurisdiction by the Board. The Agreement shall be admissible in court, and shall be binding on the Respondent.

10. The Respondent enters into this Agreement voluntarily, freely, and in the spirit of cooperation and in an effort to fully and finally resolve this matter with the Board. The Respondent waives his right to appeal this Agreement.

11. The Respondent agrees to pay a \$7,500 civil penalty for the violation. The penalty is to be paid in six (6) monthly installments, with the first installment of One Thousand Two Hundred Fifty Dollars (\$1,250.00) due at the signing of this Agreement.

12. The Respondent further agrees to a four (4) month suspension of his professional engineer's license. The Respondent shall be credited with one (1) month of the suspension which was served from 4/1/2016 to 4/30/16. The remaining three (3) months of the suspension are suspended by the Board pending the Respondent's successful completion of a four (4) year probationary period commencing from the date of this Agreement.

13. The Respondent agrees during the four (4) year probationary period: 1) to cooperate fully with any requests made by the Board for information or documents for the purposes of review in connection with projects for which he has provided or is providing professional engineering services; 2) to comply with the provisions of this Agreement; and 3) that he will not be the subject of disciplinary action by this Board or any other board, agency, or commission of this or any other state in connection with the provision of professional engineering services in this or any other state.

14. The Respondent agrees to take an additional six (6) Professional Development Hours (PDHs) in engineering ethics within sixty (60) days of the date of this Agreement and to provide the Board with evidence of his completion of the hours.

15. The Board desires to ensure that the Respondent will comply with all provisions of the Act and regulations and believes that resolution of this matter through this Agreement is in the best interest of the public and the most efficient and effective way to address the issues presented by the complaint.

Wherefore, it is this 21<sup>ST</sup> day of July, 2017, by the State Board for Professional Engineers,

**A. ORDERED that the Respondent has violated Section 14-317(a)(1)(vi), BOP, Maryland Code Annotated and Code of Maryland Regulation 09.23.03.03A;**

**B. ORDERED that the Respondent shall pay a \$7,500.00 civil fine for the violation, and that the fine be paid in 6 monthly installments of \$1,250.00 each, beginning with the first installment of \$1250.00 due at the signing of this Agreement;**

**C. ORDERED that the Respondent's professional engineer's license is suspended for four (4) months, beginning on the date of this Agreement; that the Respondent is credited with having served one month of the suspension between 4/1/2016 and 4/30/2016, and that the remaining three (3) months of the suspension will be suspended by the Board pending the Respondent's satisfactory completion of a four (4) year probationary period, during which the Respondent must comply with requests by the Board for information or requests for documentation, for purposes of peer review, for projects in which the Respondent is providing professional engineering services, comply with the provisions of this Agreement and not be the subject of disciplinary action by this or any other state board, agency or commission in connection with a professional engineers license that he holds or the provision of professional engineering services in this or any other state;**

**D. ORDERED that the suspended suspension period is satisfied upon the Respondent's successful completion of the four year probationary period.**

**E. ORDERED that the Respondent take an additional six (6) Professional Development Hours (PDHs) in the area of engineering ethics and that he provide the Board with**

documentation of completion of the courses within sixty (60) days of the date of this Agreement;

F. ORDERED that the Respondent shall adhere to all terms of the Agreement, the violation of which shall constitute a violation of a Final Order of the Board and will result in the summary suspension of his license, without a hearing prior to the suspension, and that the license will remain suspended until such time as the Respondent evidences his full compliance with the Agreement and that violation of the terms of the Agreement could constitute a violation of the probation ordered by the Board and result in the imposition by the Board of the remaining three (3) months suspension of the Respondent's license.

G. ORDERED that the Respondent shall conduct his engineering practice in full compliance with the Act and the Board's regulations and any other laws governing the provision of professional engineering services in the State;

H. ORDERED that this matter shall be resolved in accordance with the terms of the Agreement and Consent Order and that same shall be reflected among the records of the State Board for Professional Engineers; and, It is further

I. ORDERED that this document shall constitute a Final Order of the Board and that the Board may consider the Agreement and Consent Order and the facts set out herein, in connection with, and in deciding, any application, action, or proceeding before the Board; and this Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board.

Signature on file

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John Keenan, Respondent

STATE BOARD FOR PROFESSIONAL ENGINEERS

