

**BEFORE THE ENGINEERING AND LAND SURVEYING EXAMINING BOARD  
OF THE STATE OF IOWA**

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**IN THE MATTER OF:**

**ANTHONY J. SPATA  
1280 Lance Lane  
Carol Stream Il 60188**

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**CASE NO. 97-19  
CONSENT ORDER**

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The Iowa Engineering and Land Surveying Examining Board (Board) and Anthony J. Spata (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (1997) and 193C IAC 4.10:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (1997).
2. Respondent is licensed to practice professional engineering in Iowa.
3. Respondent does not contest the Statement of Charges filed in this case, although he has now sealed and recertified the plans described in the Charges.
4. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following contested case hearing.
5. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

6. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations. In addition, the Board shall advise the National Council for Examiners of Engineering and Surveying of the disposition of this matter.

7. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (1997).

8. Failure to comply with the provisions of this Order shall be considered prima facie evidence of a violation of Iowa Code section 542B.21(3) (1997) and 193C IAC 4.2, and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1997). However, no action may be taken against Respondent for violations of these provisions without a hearing as provided in Iowa Code section 542B.22, or waiver of hearing.

9. This Agreement is subject to approval of the Board:

(a) If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

**IT IS THEREFORE ORDERED:**

**A. Reprimand**

Respondent is reprimanded for failure to timely respond to Board communications.

**B. Civil Penalty**

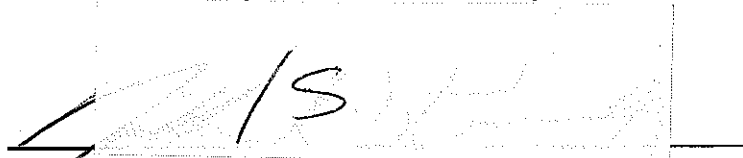
Respondent shall pay, within 30 days of the date of this order, a civil penalty of \$250 for failing to timely respond to Board communications concerning the improper certification of engineering plans.

**C. Remedial Action**


Respondent agrees in the future when practicing professional engineering in the State of Iowa to adhere to all applicable Iowa laws and administrative rules in the practice of professional engineering.

**Agreed:**

**Iowa Engineering and Land Surveying Examining Board**

  
By: **Nicholas R. Konrady, Chair**

Date 11/19/98

  
**Anthony J. Spata**

Date 10/27/98

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**CASE NO. 97-19**

**STATEMENT OF CHARGES**

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COMES NOW the Complainant, Gleen Coates, and states:

1. The Complainant is the Executive Secretary of the Iowa Engineering and Land Surveying Examining Board and files these charges solely in her official capacity.
2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C and 542B (1997).
3. Respondent is a professional engineer licensed in Iowa, license number 10958.
4. Respondent's professional engineering license is in good standing until December 31, 1999.

**Circumstances**

5. Respondent certified building plans for a McDonald's restaurant in Pleasant Hill, Iowa, on February 19, 1997.
6. The certification and seal did not correspond with those required by Iowa Code section 542B.16 (1997) and 193C IAC 1.30, for reasons including, but not limited to:
  - a. Use of term "registered" rather than "licensed,"
  - b. Failure to state the plans were prepared by the P.E. or under the P.E.'s direct personal supervision,

- c. Failure to state the licensee's license renewal date, and
- d. Failure to identify the specific pages or sheets covered by the seal.

7. Respondent was requested by certified letter dated September 26, 1997, and received by Respondent on October 3, 1997, to reseal and recertify the plans.

8. Respondent immediately confirmed acquisition of new stamps for a revised seal and certification block, but has not, despite repeated demands, provided verification that the February, 1997, plans have been resealed and recertified.

9. On June 25, 1998, the Board again requested verification that the plans had been resealed and recertified. The letter was sent by certified mail and received by Respondent on June 29, 1998. Respondent has not responded.

#### **Count I**

Respondent is charged with failing to comply with seal and certification requirements in violation of Iowa Code sections 542B.16 and 542B.21(3) (1997), and 193C IAC 1.30.

#### **Count II**

Respondent is charged with failure to timely respond to Board communications in violation of Iowa Code section 542B.21(3) (1997) and 193C IAC 4.2(4).

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.



Gleen Coates, Executive Secretary

**FINDING OF PROBABLE CAUSE**

On September 17, 1998, the Iowa Engineering and Land Surveying Examining Board found probable cause to file this Statement of charges and to order a hearing be set in this case.

*Nicholas R. Konrady*

Nicholas R. Konrady, Chair

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**IN THE MATTER OF:**

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**RESPONDENT**

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**CASE NO. 97-19**

**NOTICE of HEARING**

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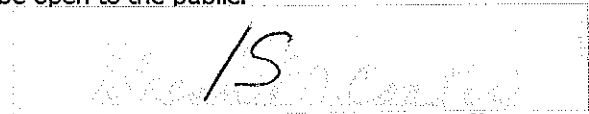
Now on the 17th day of September 1998, the Iowa Engineering and Land Surveying Examining Board has ordered a hearing in this matter.

You are hereby notified that a hearing will be held at 11 A.M. on November 20, 1998, at 1918 SE Hulsizer, Ankeny, Iowa 50021.

You may appear personally and be represented by legal counsel at your expense, with the right to produce evidence on your behalf, to cross-examine witnesses, and to examine documentary evidence produced against you. If you fail to appear and defend this matter, the hearing will proceed in your absence and a decision will be made.

You are further notified that a pre-hearing conference will be conducted on November 10, 1998 at 2 p.m. at the Board office, 1918 SE Hulsizer, Ankeny, Iowa. The pre-hearing conference will be conducted by an Administrative Law Judge pursuant to Iowa Administrative Code Rule 193C—4.14(3), a copy of which is attached. The hearing shall be open to the public.

Dated this 29th day of September 1998.



Gleen M. Coates, Executive Officer  
Iowa Engineering and Land Surveying Examining Board

cc: Engineering and Land Surveying Examining Board  
Pamela Griebel, Assistant Attorney General  
Department of Inspections and Appeals