

**BEFORE THE PROFESSIONAL ENGINEERING COMMITTEE
OF THE STATE OF NEW MEXICO**

IN THE MATTER OF:

**ANTHONY D. OOTEN
License No. 17094,**

Case No. ADO-01-10-2023

Respondent.

DEFAULT ORDER

THIS MATTER came before the New Mexico Professional Engineering Committee (“Committee”) during its regularly scheduled meeting on August 8, 2024, held at 4401 Masthead Street NE, Suite 150, Albuquerque, New Mexico, for a decision in the above-referenced case. With a quorum present and with a unanimous vote in the affirmative, the Committee voted to render this decision and order.

FINDINGS OF FACT

1. On or about December 19, 2023, the Committee issued a Notice of Contemplated Action (“NCA”) to Anthony D. Ooten (“Respondent”). The NCA stated that the Committee had sufficient evidence to justify suspending or revoking license. Respondent was also informed that the Committee could impose administrative penalties against a licensee pursuant to NMSA 1978, Section 61-23-24(A) of the Engineering and Surveying Practice Act.

2. The NCA stated that Respondent’s alleged conduct, unless explained or rebutted at a formal hearing, justified the Committee in suspending or revoking Respondent’s license and imposing administrative penalties as allowed by law.

3. The NCA further informed Respondent that, if they would like the opportunity for a formal hearing in this matter they must request “a hearing within twenty (20) days after

service of this notice. . . [A] written request for hearing should be sent to the following address: NM BLPEPS, PO Box 1967, Santa Fe, NM 87504.

4. On or about December 19, 2023, the U. S. Postal Service (“USPS”) received an envelope containing the NCA that was addressed to the Respondent’s last known address as shown in the Committee’s records, via certified mail, return receipt requested (No. 7011 2970 0003 9315 8035).

5. Respondent did not request a hearing within twenty (20) days of service of, the last attempted delivery of, or Respondent’s refusal to accept delivery of, the NCA as contemplated by Sections 61-1-4(D)(3) (2003) and 61-1-5 (1957) of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34 (1957, as amended through 2013) (“ULA”).

6. Respondent(s) failed to otherwise respond to the NCA.

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Committee reaches the following Conclusions of Law:

1. The Committee has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the Engineering and Surveying Practice Act and ULA.

2. When served by certified mail, the NCA is deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the NCA to the addressee or refusal of the addressee to accept delivery of the NCA. NMSA 1978, Section 61-1-5.

3. Service of the NCA upon Respondent via certified mail was accomplished in accordance with Sections 61-1-4 and 61-1-5 of the ULA.

4. The Committee may take the action contemplated in the NCA if the Respondent does not deposit in the mail a certified return receipt requested letter addressed to the

Committee containing a request for a hearing within twenty (20) days after service of the NCA. NMSA 1978, Sections 61-1-4(D)(3) and (E).

5. More than twenty (20) days have passed since Respondent was served, or are deemed to have been served, with the NCA and Respondent failed to request a hearing. Thus, the Committee is authorized to take the action contemplated in the NCA pursuant to Section 61-1-4(E) of the ULA.

6. The Committee has complied with all notice and other procedural requirements of the Engineering and Surveying Practice Act and the ULA.

7. The Committee may suspend, refuse to renew or revoke a license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand any professional engineer who is found by the Committee to have:

16.39.7.9(D) NMAC: Violations, 90-day Reporting Requirement.

D. Each applicant or licensee shall notify the board, in writing, within 90 days, of the imposition of any disciplinary action by any other applicable licensing board or any conviction of or entry of plea of nolo contendere to any crime under the laws of the United States, or any state, territory or county thereof, which is a felony, whether related to practice or not; any conviction of or entry of plea of nolo contendere to any crime, which is a felony directly related to the practice of engineering or surveying as listed in Subsection F of 16.39.7.9 NMAC.

8. The Committee may impose fines as may be determined by the nature of the violation pursuant to NMSA 1978, Section 61-23-24. 16.39.7.8 NMAC.

9. The Commission's Decision and Order in this matter is final and is not subject to judicial review. NMSA 1978, § 61-1-4(E).

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Committee renders this Order.

IT IS THEREFORE ORDERED that ANTHONY D. OOTEN shall pay an administrative fine in the amount of two thousand, five hundred dollars (\$2,500) within sixty (60) days of the issuance of this Decision and Order. Failure to pay the administrative penalty by (60 days + date of execution of this Order), will result in an **AUTOMATIC SUSPENSION** of ANTHONY D. OOTEN's Professional Engineering License No. 17094.

IT IS FURTHER ORDERED that this Decision and Order shall be served upon Respondents in accordance with Section 61-1-5 of the ULA and with the Engineering and Surveying Practice Act. Committee Chair, Elizabeth McNally is designated to sign this Decision and Order on behalf of the Committee.

**NEW MEXICO PROFESSIONAL
ENGINEERING COMMITTEE**

11/17/2024

DATE

ELIZABETH MCNALLY, PE
PEC Chair, NMBLPEPS