

**BEFORE THE PROFESSIONAL ENGINEERING BOARD OF
THE NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL
ENGINEERS AND PROFESSIONAL SURVEYORS**

IN THE MATTER OF:

Michael D. Clark
License No. **29594**

SELF-REPORT: **MDC-12-09-2024**

Respondent.

**PRE-NOTICE OF CONTEMPLATED
ACTION SETTLEMENT AGREEMENT**

WHEREAS, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors' Professional Engineering Board ("Board") reviewed records and investigation files demonstrating violations of the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 through 61-23-36 and Board Rules adopted pursuant to that Act, and on January 16, 2025, the Board's Professional Engineering Committee voted to enter into a Pre-Notice of Contemplated Action Settlement Agreement ("Pre-NCA") in this matter to Respondent Michael D. Clark, Professional Engineer, license number 29594; and

WHEREAS, Respondent and the Board are willing to resolve this matter amicably without the issuance of an NCA as required under the Uniform Licensing Act ("ULA"), NMSA Sections 61-1-1 et seq., and the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 et seq., without a hearing; and

WHEREAS, Respondent and the Board believe that this Pre-NCA Settlement Agreement is appropriate and in the best interests of both the Board and Respondent;

IT IS AGREED AS FOLLOWS:

1. Jurisdiction

The Board has jurisdiction over Respondent and the subject matter. Respondent is licensed by the Board or otherwise subject to the Engineering and Surveying Practice Act and falls under the jurisdiction of the Board and its Professional Engineering Committee.

2. Violations

Section 16.39.7.9 NMAC Violations

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.

3. Action

A. Respondent will remit a total fine of \$2,000 payable to NMBLPEPS to be paid no later than sixty (60) days from the date this Agreement is accepted by the Board.

4. Waiver

A. Respondent enters into this Pre-NCA Settlement Agreement voluntarily and waives Respondent's right to a full hearing before the Board and all relevant time limitations pursuant to the provisions of the ULA, including but not limited to NMSA 1978, Sections 61-1-4(F) and 61-1-8.

B. By signing this Pre-NCA Settlement Agreement, Respondent understands and agrees that Respondent waives excusal of any Board member on the grounds of bias or improper motive as a result of Respondent's review of this Pre-NCA Settlement Agreement.

C. Respondent's waiver of any rights herein is made knowingly, intentionally, and voluntarily.

D. Respondent has the right to seek the advice of an attorney regarding this Pre-NCA Settlement Agreement.

E. This Pre-NCA Settlement Agreement constitutes disciplinary action by the Board.

5. Failure to comply with the terms and conditions of this Pre-NCA Settlement Agreement shall be separate and independent grounds for disciplinary action by the Board. In the event the Respondent fails to comply with the provisions hereof, the Board shall have the

right to take such action against Respondent as it deems appropriate under the circumstances, including revoking Respondent's license.

6. This Pre-NCA Settlement Agreement is a settlement of Self-Report Number MDC-12-09-2024 and only the specific facts therein. No costs have been incurred in this matter. The Board reserves the right to initiate proceedings for any other violation of the Engineering and Surveying Practice Act or the Board Rules adopted pursuant to that Act.

7. Reportable Discipline

- A. This Agreement, if accepted, constitutes formal disciplinary action by the Board and must be reported to the National Council Examiners for Engineering and Surveying (NCEES) Enforcement database. It is noted that other jurisdictions where Respondent possesses an engineer's license might require Respondent to report this disciplinary action. This statement is a reminder that Respondent may have a duty to report this disciplinary action in another jurisdiction. Respondent acknowledges the following discipline will be reported:

Respondent failed to notify the Committee within 90 days of the imposition of any disciplinary action by any other applicable licensing board.

8. Non-Compliance

Respondent agrees that any violation of this Agreement may result in further disciplinary action. A violation will result in the immediate filing of an Order to Show Cause by the Board's Executive Director as to why the Board should not find Respondent in violation of the Agreement and impose lawful sanctions or penalties and/or take any other disciplinary action. Upon filing an Order to Show Cause, the matter shall be set for the next regular meeting of the Board, at which time the Board shall hear from the Executive Director regarding the alleged non-compliance and any evidence offered by Respondent. Any presentation regarding the Order to Show Cause shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement or defense thereof. If the Board finds that a violation has occurred, the Board may impose any discipline against Respondent considered in the Order to Show Cause.

9. Compliance

If Respondent fully complies with the terms and conditions of this Agreement the matter will be concluded. Respondent agrees to otherwise comply with the Engineering and Surveying Practice Act and acknowledges that any separate violation of the Act or Board Rules adopted to that Act, which may result in separate disciplinary charges and action by the Board.

10. Contact Information

Respondent shall notify the Board's office within ten (10) calendar days if there is a change in employment or home address while this Agreement is in effect.

11. The Board agrees that nothing in this Pre-NCA Settlement Agreement represents a restriction on the Respondent's license.

12. This Pre-NCA Settlement Agreement is a public record subject to inspection under the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 et seq.

2/14/2025

DATE

RESPONDENT

**BEFORE THE PROFESSIONAL ENGINEERING BOARD OF
THE NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL
ENGINEERS AND PROFESSIONAL SURVEYORS**

IN THE MATTER OF:

**Michael D. Clark
License No. 29594**

SELF-REPORT: MDC-12-09-2024

Respondent.

ORDER

Having reviewed this proposed Pre-NCA Settlement Agreement, the Committee Chair, by and through the authority provided by the Committee, during a public meeting, this Agreement is:

 X ACCEPTED REJECTED

2/18/2025

DATE

ELIZABETH MCNALLY, PE
CHAIRPERSON
NEW MEXICO PROFESSIONAL
ENGINEERING COMMITTEE

