

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

FILED 9/8/11 (Date)

DEUSEB
Board / Commission

IN THE MATTER OF:)
)
Richard A. Whiteaker and)
Pool Tech Midwest, Inc.)
)
Respondents.)

CASE NO. 11-16

CONSENT ORDER

Signature, Executive Officer

A. Statement of Charges

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this matter pursuant to Iowa Code chapter 542B (2011) and, in particular, Iowa Code sections 542B.1 and 542B.27.

2. Richard A. Whiteaker is not a licensed professional engineer. He is the president and registered agent for an Iowa corporation, Pool Tech Midwest, Inc.

3. The Board received a complaint in August 2010 alleging that Respondents offered professional engineering services to a governmental body and did so under circumstances that would violate ethical standards if offered by a licensed professional engineer. While the documents provided to the Board suggest a licensed professional engineer was involved, the Board's investigation determined the named professional engineer played no role in the community pool project at issue and was unaware his name was used by Respondents when preparing a feasibility study and bidding on future professional engineering services.

4. The Board charges Respondents with offering professional engineering services to the public while unlicensed in violation of Iowa Code section 542B.27(1)(a).

B. Settlement Agreement and Consent Order

5. Respondents have a right to a hearing on the charges, but waive their right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

6. Respondents agree the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

7. This Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2011).

8. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, 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 Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Cease and Desist. Respondents shall not in the future offer professional engineering services to the public unless they do so consistent with 193C Iowa Admin. Code 8.5 concerning engineering services offered by business entities.

B. Civil Penalty. Respondents shall jointly and severally pay the sum of \$500.00 in civil penalties to the Board (made payable to the State of Iowa) no later than 20 calendar days following the date the Order is signed by all parties.

AGREED AND ACCEPTED:

[Redacted Signature]

Date 8/16/11

Richard A. Whiteaker, individually and as
President of Pool Tech Midwest, Inc

The Iowa Engineering and Land Surveying Examining Board

[Redacted Signature]

Date 9/1/11

By: Marlee Walton, PE, PLS, Chair