
THE OFFICE OF REGULATORY AFFAIRS

TO: CI-050-15
FROM: TERENCE P. LUCKIE *TPC*
DATE: 3/18/16
SUBJECT: MICHAEL KHODA, C.O. CLARK

Predication:

Mr. Frank Oberlies, Former Fire Subcode Official of Clark Township contacted this office on July 16, 2015 alleging that he was conducting plumbing inspections without the required plumbing inspection license for his Construction Official, Mr. Michael Khoda for the past two years. Mr. Oberlies provided copies of his inspection time sheets from January 2015 through June 2015(Exhibit 1).

Investigation:

On October 27, 2015 this writer reviewed the Clark Construction Permit Files and Inspection log sheets.

On October 30, 2015 a meeting was held with the Mr. Oberlies, Mr. John Maher, Investigator Regulatory Affairs and this writer. At this meeting Mr. Oberlies stated that he had been doing plumbing inspections for Mr. Khoda for approximately two years and that Mr. Khoda knew he was not licensed to do so. He also mentioned that Mr. Khoda had issued himself a permit, reviewed as Building Subcode Official, inspected as Building Inspector and approved as Construction Official to replace a sign as the owner of 33 Westfield Avenue, which is a business owned by Mr. Khoda under the name of MKSK L.L.C. This property was purchased by MKSK L.L.C. on or around March 2, 2015(Exhibit 2). Mr. Oberlies also stated that Mr. Khoda asked that he put approval stickers on the furnace at 33 Westfield Avenue.

On January 8, 2016 Mr. William Schmidt, Investigator Regulatory Affairs and this writer visited the Clark Township Construction office to review further records regarding this complaint. The following was found:

Permit 15-838 for 33 Westfield Avenue (Exhibit 3), for the replacement of a sign was found to have been reviewed, approved for permit and inspected and

approved by Mr. Khoda as Building Inspector, Building Subcode, and Construction Official.

The following addresses were found to have had plumbing inspections performed by Mr. Oberlies and are as follows:

1. 4-B Acken Drive
2. 345 Valley Road
3. 903 Raritan Road
4. 5 Florence Drive
5. 40 Wendell Place
6. 6 Hilhop Avenue
7. 1821 Dakota Street
8. 55 Acorn Drive

Mr. Oberlies signed off on approval for plumbing inspections and Plumbing Subcode Approval by initialing M.K (exhibit 4). These are not Mr. Khoda's initials (Exhibit 5). Mr. Oberlies admitted to this during our October 30, 2015 meeting. The copies of permits for the above listed properties are included with the corresponding Inspection log sheets which are prepared by the technical assistants when inspections are requested. These permits and Fire Inspection Logs clearly show that plumbing inspections were performed by Mr. Oberlies (Exhibit 6).

On January 14, 2016 Mr. Schmidt Investigator Regulatory Affairs, Mr. Joseph J. Triarsi Clark Township Attorney, Mr. Khoda Clark Construction Official, Plumbing Subcode Official, and this writer met to discuss these allegations. During this meeting this writer questioned Mr. Khoda regarding the initials that were signed off on for the above referenced plumbing permits. Without answering my question, Mr. Khoda stated there was no reason to be questioning initials, he stated that he had Mr. Oberlies perform plumbing inspections for him and thought he had the authority to allow Mr. Oberlies to do so. He stated that they were very busy with plumbing inspections and he felt sorry for Mr. Oberlies since he wanted to work more hours. He also stated that he showed Mr. Oberlies and taught him what to look for during these plumbing inspections which were mostly replacement of hot water heaters and furnaces.

I also asked Mr. Khoda why he reviewed, inspected and approved a permit, for a sign at his business at 33 Westfield Avenue, knowing that it was a conflict of interest. Mr. Khoda had the Linden Construction Office do all inspections on this building prior to his business closing on the property so not to have the illusion of a conflict of interest. Mr. Khoda stated that he didn't even think he needed a permit for the sign but got one just in case someone complained about his business doing work without permits.

After our meeting, with the permission of Mr. Khoda Mr. Schmidt and this writer visited his business located at 33 Westfield. We found Approval Stickers for Plumbing and Fire which were initialed by Mr. Oberlies, consistent with the way he initialed all plumbing technical sheets (Exhibit 7).

This writer discussed the approval stickers with Mr. Khoda during a phone conversation on or around February 11, 2016. Mr. Khoda stated that Mr. Oberlies had entered his business at 33 Westfield Avenue without approval and that he may have put the approval stickers there at that time. Mr. Khoda did provide this office with a police report regarding Mr. Oberlies entering the business (Exhibit 8). Mr. Oberlies was questioned regarding police report via phone conversation by this writer shortly thereafter and stated he went to property looking for flash light, that he did not leave plumbing or fire approval stickers then. In light of the fact that Mr. Oberlies may have entered and left the plumbing sticker at the time the police report indicates, this allegation cannot be substantiated by this office.

Mr. Khoda also provided a copy of a Memo stating that the Construction office inspection log book went missing from the Construction Office sometime in May of 2015 and returned sometime in August of 2015 (Exhibit 9).

This office is presenting permits and log sheets from 2014 to present.

Conclusion:

Based on the above facts, this office has found that Mr. Khoda engaged in conduct violating the New Jersey Uniform Construction Code.

Michael Khoda:

N.J.A.C 5:23-5.259(a)1. Has violated the provisions of the Uniform Construction Code regulation.

N.J.A.C. 5:23-5.25(a)3. Has aided or abetted as a licensed code enforcement official.

N.J.A.C. 5:23-4.5(j)1. Conflict of Interest: No person employed by an enforcing agency as a construction or subcode official or as an inspector shall knowingly carry out any inspection or enforcement procedure with respect to any property or business in which he has economic interest.

All of which shall constitute grounds for revocation of the Uniform Construction Code Licenses, which include the following License #005189

- 1) Building Inspector H.H.S.
- 2) Fire-Protection Inspector I.C.S.
- 3) Plumbing Inspector H.H.S
- 4) Subcode Official
- 5) Construction Official

I agree send to

Bob For Peer review

LM

3-25-16



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CAF 12975-18

AGENCY REF. NOS. ORA-234-
17; CI-050-15; OR-004-17

MICHAEL KHODA,

Petitioner,

v.

OFFICE OF REGULATORY AFFAIRS,

Respondent.

Lawrence P. Powers, Esq., for Petitioner

Steven Gleeson, Deputy Attorney General, for Respondent (Gurbir Grewal,
Attorney General of New Jersey, attorney)

Record Closed: May 31, 2019

Decided: July 15, 2019

BEFORE **JOHN P. SCOLLO, ALJ:**

STATEMENT OF THE CASE

This case involves Michael Khoda (Khoda), a New Jersey-licensed Construction Official, Building Subcode Official, Building Inspector, H.H.S. (including I.C.S. and R.C.S.), Plumbing Subcode Official, Plumbing Inspector, H.H.S. (including I.C.S. and R.C.S.), and Fire Protection Inspector, I.C.S. During the relevant period, Khoda served

as the Construction Official, Building Subcode Official, and Building Inspector for the Township of Clark in Union County, New Jersey.

On November 15, 2017, Louis J. Mraw, the Supervisor of the Office of Regulatory Affairs (ORA), in the Division of Codes and Standards (DCS), in the Department of Community Affairs (DCA), issued and sent a "Notice of Violation and Order to Remove" (the Order) to Khoda, advising him that the ORA had determined that he: (1) had violated N.J.A.C. 5:23-4.5(j)(1)(i) by performing a code enforcement function including a plan review and permit issuance on a sign project at 33 Westfield Avenue, which Khoda owned under the name of MKSK, LLC; and (2) had violated N.J.A.C. 5:23-5.25(a)(1) and (a)(3) by having Frank Oberlies (Oberlies) perform Plumbing Subcode inspections at eight different locations, knowing that Oberlies did not possess a plumbing inspector license. The Order provided that Khoda's various licenses (collectively listed under "license number 005189") were thereby revoked. The revoked licenses included Khoda's Construction Official license, his Building Subcode Official license, his Building Inspector H.H.S. (including I.C.S. and R.C.S.) license, his Plumbing Subcode Official license, Plumbing Subcode Inspector license, H.H.S. (including I.C.S. and R.C.S.), and his Fire Protection Inspector, I.C.S. license.

The Respondent, ORC filed a Motion for Summary Disposition seeking to dismiss Petitioner Khoda's appeal of the ORC's determinations and revocations of his licenses.

In his Opposition to the Motion, Khoda seeks a ruling from the OAL that the ORA's determinations on the above-stated violations should be reversed because his actions were unintentional, were done in good faith, did not threaten or impair the public's health, safety or welfare, and because the ORC's decisions were arbitrary, capricious, unreasonable, or lacking fair support in the evidence; and, in the alternative, he seeks a ruling from the OAL that the penalty of revocation was arbitrary, capricious, or "so disproportionate to the offense" so as to be "shocking to one's [i.e., a reasonable person's] sense of fairness."

PROCEDURAL HISTORY

On December 5, 2017, Khoda, by his legal counsel, Lawrence P. Powers, Esq. sent a letter advising the ORA of his intent to contest the Order and requested a hearing before the Office of Administrative Law (OAL). On December 18, 2017, the ORA sent a Hearing Request Acknowledgment to Attorney Powers. On August 24, 2018, the ORA transmitted the matter to the OAL where it was filed on September 4, 2018, as a contested case under N.J.S.A. 52:14B-1 through -15 and N.J.S.A. 52:14F-1 through 13.

On September 13, 2018, the case was assigned to John P. Scollo, ALJ, who held a Pre-Hearing Conference on September 21, 2018. Judge Scollo issued a Pre-Hearing Order on September 25, 2018, which included the setting of dates for propounding and responding to discovery requests. The Office of the Attorney General, representing the ORA, and the Petitioner's counsel each submitted their respective preliminary Outlines of the facts and issues involved in this case. The respondent submitted its Outline received by the undersigned on October 9, 2018. Khoda submitted his Outline which was received on October 3, 2018. Paper discovery was requested and after some motion practice was ultimately provided by both sides. The Parties submitted a Joint Stipulation of Facts on January 23, 2019. The parties also marked and submitted their proposed exhibits.

Respondent (ORA) filed its Notice of Motion for Summary Decision on January 29, 2019. Petitioner's Opposition papers were filed on February 15, 2019. Respondent's Reply papers were submitted on February 21, 2019. From February 28 through mid-April 2019 the ALJ was on emergency sick leave and thereafter returned to his duties. In light of this, the parties agreed that the record closed date would be set for May 31, 2019.

FACTUAL DISCUSSION

The parties submitted a document containing their Joint Stipulations of Fact, which was marked as R-1. In his Opposition papers, Khoda does not raise any issues of material fact that would render disposition by summary decision inappropriate.

What follows is a recapitulation of the facts set forth in the Joint Stipulation of Facts and of facts set forth in the parties' analysis of the case, which are not in dispute. The following is not a verbatim recitation of the facts in the case, but are those which, I believe, are of particular importance. They are listed below:

(1) The time periods in question include, more or less, January through May 2015 regarding the "aided and abetted" charge and August 28, 2015, through September 22, 2015, regarding the "conflict of interest" or "sign permit" charge.

(2) Michael Khoda held the following Uniform Construction Code-related (UCC) licenses (License Number 005189):

- Construction Official;
- Building Subcode Official;
- Building Inspector, H.H.S. (including I.C.S. and R.C.S.);
- Plumbing Subcode Official;
- Plumbing Subcode Inspector H.H.S. (including I.C.S. and R.C.S.); and
- Fire Protection Inspector, I.C.S.

(3) By its Notice of Violation and Order to Revoke dated November 15, 2017, the Office of Regulatory Affairs (ORA) revoked all of Khoda's UCC-related licenses.

(4) At the relevant time, Khoda was the owner of a commercial property at 33 Westfield Avenue, Clark, N.J. (Khoda's property, the subject premises, or the location). This property housed a business, for which there was an exterior sign (a three-dimensional, illuminated box-like structure in which was contained a two-dimensional plastic laminate sign showing the name and phone number of the business).

(5) This Tribunal takes judicial notice that the sections of the Ordinances of the Township of Clark, New Jersey governing "Signs" is set forth in Article XXV of said Ordinances. This Tribunal also takes judicial notice that the sections cited by Petitioner Khoda's counsel in his Opposition papers, namely Section 195-150 entitled "Permit

Requirements," Section 195-152 entitled "Existing Signs," and Section 195-161 entitled "Fees" read exactly the same during the relevant time as they do now and that the recitation of same in Khoda's Opposition papers is accurate. The above-referenced sections are set forth in their entirety in the "Applicable Law" section of this Initial Decision.

(6) In his papers, Khoda refers to the subject sign at 33 Westfield Avenue. A copy of a photograph of this sign was appended to P-1 of the Petitioner's proposed exhibits. The details of the sign as shown in the copy of the photograph of the sign included as Exhibit 'A' in Exhibit R-3 are indiscernible. The Tribunal therefore relied upon the photo reproduced in P-1 for information. The parties do not disagree about the physical characteristics of the sign as set forth in their proposed exhibits. As noted above, the overall sign is a three-dimensional, box-like structure suspended from a horizontal staff containing a two-dimensional plastic laminate sign showing the name and phone number of the business entity. The two-dimensional plastic laminate sign was said to be made of plastic laminate. The three-dimensional, box-like structure containing the two-dimensional plastic laminate sign was said to contain electronic illumination components. Khoda's argument is that he did not seek to replace the existing overall sign, but only wanted to replace the worn and faded two-dimensional plastic laminate (the printed portion of the sign), and thus did not need a permit. Khoda also argues that his actions in respect to replacing the faded plastic laminate with a new plastic laminate sign constitutes the performance of maintenance on the overall sign, not a replacement of the entire sign.

(7) Khoda stated that "out of an abundance of caution" and being cognizant of the conflict of interest provisions of the Uniform Construction Code (N.J.A.C. 5:23-4.5. (j)(1)), he consulted with Arthur Figueirido, the Linden Construction Official, who served as the conflict inspector for the Township of Clark. Khoda consulted with Figueirido in order to obtain Figueirido's independent opinion as to whether a plan, a sign permit, and/or an inspection were required. In Figueirido's Certification (see Figueirido's Certification referred to R-20 of Respondent's proposed exhibits), relying upon the language of the Clark Sign Ordinance (Sections 195-150 and 195-152), states under oath that the replacement of the worn laminate would be considered "ordinary repair,"

that in his judgment would not require a plan, a permit, or an inspection. The above-cited ordinances and Figueirido's Certification were both attached to Attorney Powers's Opposition papers.

Khoda admits that, relying on Figueirido's opinion and believing that no permit or inspection was even necessary for the work he was about to do, he paid the required fee for a permit and issued the permit to himself for a property that he owned. Khoda admits that he performed an inspection on the sign located on his own property.

(8) In the Joint Stipulation of Facts, Khoda admits that he directed Frank Oberlies to perform some inspections of hot water heaters (i.e., plumbing inspections) and to issue permits at eight different locations within Clark Township during the time period in question. From past experience with Oberlies, Khoda knew that Oberlies was capable of performing this type of inspection and was permitted to do so by virtue of his Fire Subcode official license. However, Khoda stated, in his Interrogatory Answers (R-20) that, until informed to the contrary by Mr. Luckie, he was unaware that the responsibility for the inspection of hot water heaters had been transferred from the Fire Subcode officials to the jurisdiction of the Plumbing/Mechanical Subcode officials; and that he thus believed that having a Fire Subcode official like Oberlies perform the inspections was correct. Khoda also stated in his answers to Interrogatories that he was unaware during the time in question that Oberlies was initialing the permits as "M.K." rather than with his own initials. Khoda also stated in his answers to Interrogatories that he was aware that Oberlies resigned his position as Fire Subcode official on May 31, 2000.

APPLICABLE LAW

Summary Decision

Motions for summary decision, the OAL equivalent of a summary judgment motion, are covered under N.J.A.C. 1:1-12.1 et seq. This regulation provides that in order to be granted, the moving party must show that there is no genuine issue of material fact and that they are entitled to prevail as a matter of law. In order to prevail,

an adverse party must, by responding affidavit, set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. Ibid. The provisions mirror the summary judgment language of R. 4:46-2(c) of the New Jersey Court Rules.

The New Jersey Supreme Court held that "when deciding a motion for summary judgment . . . , the determination whether there exists a genuine issue with respect to a material fact challenged requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). When the non-moving party comes forward with evidence, the court should not hesitate to grant summary judgment when the evidence "is so one-sided that one party must prevail as a matter of law." Id. at 536.

APPLICABLE CONSTRUCTION CODE LAWS AND REGULATIONS

The Uniform Construction Code Act is found in N.J.S.A. 52:27D-119 to -141.9. Among its many provisions, it states, in Section 27D-126, that the Commissioner of the Department of Community Affairs must determine that all Construction Officials and Subcode Officials have the educational and other necessary qualifications to fulfill their duties.

The Uniform Construction Code is found in N.J.A.C. 5:23-1.1 to 5:23-12A.6. The requirements for a Construction Official's license are found in N.J.A.C. 5:23-5.6. The requirements for a Subcode Official are found in N.J.A.C. 5:23-5.7. The term "enforcing agency" is defined in N.J.A.C. 5:23-1.4 as follows:

"Enforcing agency" means the municipal or State administrative entity charged with the administration and enforcement of the regulations consisting of the construction official, subcode officials and assistants thereto appointed in accordance with N.J.S.A. 52:27D-126 of the act and the regulations.

Regulations Dealing with Conflicts of Interest

The Uniform Construction Code contains a Conflict of Interest provision, which is found at N.J.A.C. 5:23-4.5(j). N.J.A.C. 5:23-4.5(j)(1) and (j)(1)(i) read as follows:

(j) Conflict of Interest

(1) No person employed by an enforcing agency as a construction or subcode official or as an inspector shall knowingly carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or any close relative or household member, or his or her superior within the enforcing agency, or any close relative or household member of such superior, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency, or any household member of any such public official or employee, has an economic interest. For purposes of this paragraph, "close relative" shall mean and include a spouse, sibling, ancestor or descendant, or the spouse of any of them.

(i) Where any inspection or enforcement procedure is necessary or required in any such property or business, and there is no other person employed by the enforcing agency who is qualified, pursuant to this chapter, to perform the inspection or enforcement procedure and who is not a subordinate of the person with the direct or indirect economic interest in such property or business, the official or inspector shall arrange for the inspection or enforcement to be carried out either by another local enforcing agency or by the Department.

Regulations Dealing with the Revocation of Licenses and Certifications and Alternative Sanctions

The Uniform Construction Code, sets forth sanctions including the revocation or suspension of licenses and certifications as well as alternative sanctions for violations of its provisions. These are found at N.J.A.C. 5:23-5.25. N.J.A.C. 5:23-5.25(a) provides as follows:

(a) The Department may revoke or suspend a license or certification, and/or assess a civil penalty in accordance with N.J.A.C. 5:23-2.31, if the Department determines that the person involved, at any time during the preceding 10-year period:

(1) Has violated the provisions of the Uniform Construction Code regulations;

(3) Has aided or abetted in practice as a licensed code enforcement official or certified special inspector any person not authorized to practice as a licensed code enforcement official or certified special instructor under the provisions of these regulations;

(6) has failed over a period of time, to maintain a minimally acceptable level of competence;

(10) Has engaged in any conduct which demonstrates incompetency or dishonesty; or

(11) Has failed to enforce the Uniform Construction Code Act or Regulations.

Regulations Dealing with the Duty of the Enforcing Agency to Ensure that it Employs Only Licensed People

The Uniform Construction Code prohibits officials and inspectors of enforcing agencies from offering employment to or continuing the employment of persons who are not licensed for any position requiring a license. This enforcing agency's duty is set forth in N.J.A.C. 5:23-5.4(g), particularly (g)(3), where it states:

It shall be a violation of these rules in the case of construction and subcode officials and technical inspectors for any enforcing agency, including private on-site inspection and plan review agencies, to offer employment to or to retain for employment any person who is not licensed in accordance with these rules if such person has not been previously and continuously employed by such agency.

Further, it shall be a violation of these rules for an enforcement agency to continue an individual in employment in a position for which a license is required pursuant to these rules, or to hire an individual for such a position, if such person is not licensed in accordance with this subchapter. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-4.3(f), and the Department may exercise the remedies provided therein.

Selected Clark Township Ordinances Applicable to Signs

The Township of Clark, Union County, New Jersey has passed certain ordinances applicable to whether or not permits are required for new signs, or for the maintenance or replacement of existing signs. Among the Clark Township Ordinances dealing with signs, are those found at Section 195-150, Section 195-152, and 195-161.

Section 195-150 deals with Permit Requirements and states:

All signs, except as hereinafter provided, shall require a permit. Applications for permits shall be submitted in triplicate to the Construction Code Official. Each application shall be accompanied by a description of the sign and / or a sketch or plan showing the size, location and other pertinent data required by the Construction Code Official.

Section 195-152 deals with Existing Signs and states:

Any sign erected, hung or otherwise displayed prior to the adoption of this article which does not conform to these provisions shall not be altered by changing the overall dimensions. If deteriorated or damaged to the extent of one-half of its replacement value, such sign shall not be rebuilt and shall be removed within 60 days following notice to do so by the Construction Code Official; provided, however, that nothing contained herein shall prevent maintenance, repainting or posting of such signs.

Section 195-161(A) deals with the Fees Payable for Sign Permits and states:

Each application filed with the Construction Code Official for a sign permit shall be accompanied by a fee payable to the Township in accordance with the schedule of fees set forth in Section 122-2.

LEGAL ANALYSIS AND CONCLUSIONS

There are no questions of material fact that would render disposition by summary decision inappropriate. The question herein is whether or not the ORA has demonstrated that, based on the facts in the record, it is entitled to a judgment in its favor on the law.

The Aiding and Abetting Charge

ORA is implicitly asking the Tribunal to accept as a matter of fact that Khoda knew or should have known that jurisdiction for water heater inspections had passed from Fire Subcode officials to Plumbing/Mechanical Subcode officials.

Khoda admits that he directed Oberlies to perform hot water heater inspections during the time period in question. Khoda asks this Tribunal to accept his statement that he did not realize that the responsibility for the inspection of hot water heaters had passed from those licensed as Fire Subcode Inspection officials (during which former time Oberlies had legitimately performed these inspections) to those licensed as Plumbing/Mechanical Subcode officials. Khoda's statement is an admission that he did not keep his knowledge of the regulations current.

Khoda asks this Tribunal to accept that he did not realize that Oberlies was using Khoda's initials to issue permits. The Notice of Violation and Order to Revoke did not cite Oberlies's use of Khoda's initials as a reason for its determinations and penalties. Therefore, this Tribunal does not need to address this point.

Khoda has not raised any issues of material fact, but it is his position that a hearing would afford the Tribunal the opportunity to assess Khoda's assumptions and motivations (for assigning tasks to Oberlies) when considering the proper penalty.

The above-referenced matters do not require a fact-finding hearing. The Tribunal understands Khoda's above-stated reason for why he assigned tasks to Oberlies.

Whether Khoda knew that Oberlies was no longer permitted to perform hot water heater inspections because of the change in responsibility from the Fire Subcode officials to the Plumber/Mechanical officials is not truly a fact question in need of determination by this Tribunal because, as a matter of law, a Construction Official is indeed required to know the current state of the regulations regarding the scope of authority for himself and for various officials and inspectors he is working with. (See N.J.A.C. 5:23-5.4(g)(3) and N.J.A.C. 5:23-5.25(6) and (10)). The failure to keep current with changes in the regulations demonstrates incompetence.

I **CONCLUDE** that Khoda was required to keep his knowledge of the regulations current pursuant to N.J.A.C. 5:23-5.25(6) and (10), and, pursuant to N.J.A.C. 5:23-5.4(g)(3) to ascertain whether Oberlies's credentials were correct and current enough so as to permit him to perform the hot water heater inspections.

Khoda was aware that Oberlies resigned in 2000. Khoda should have exercised vigilance about whether Oberlies's credentials were still in effect in 2015. It is clear that Khoda simply failed to exercise vigilance about whether Oberlies's credentials were still current in 2015. Whether Khoda knowingly assigned Oberlies to perform inspections without the required license is a different question. I **CONCLUDE** that there is insufficient proof to demonstrate that Khoda knowingly assigned an unlicensed person (Oberlies) to perform inspections. Therefore, I **CONCLUDE** that there is insufficient evidence to prove that Khoda violated N.J.A.C. 5:23-5.25(a)(1) or (a)(3).

However, there is sufficient proof that Khoda failed to keep his knowledge of the regulations current (i.e., Khoda's above-noted admission) and that Khoda failed to check on whether Oberlies's license was current when he permitted Oberlies to perform the inspections. I, therefore, **CONCLUDE** that Khoda violated N.J.A.C. 5:23-5.25(a)(6) and (a)(10) and violated N.J.A.C. 5:23-5.4(g)(3).

The Conflict of Interest Charge

Khoda admitted that he issued a permit for a sign on his own property and he admitted that he inspected the sign on his own property.

In his Opposition papers Khoda's counsel mentions that Khoda did not confer a financial "benefit" upon himself by issuing the sign permit or by inspecting a sign on his own property. He argues that because there was no economic gain, the penalty of revocation is inappropriate. However, a closer reading of N.J.A.C. 5:23-4.5(j)(1) shows that it speaks not of conferring an economic "benefit" on oneself, but of "having an economic interest" in the subject property. It therefore does not matter that Khoda did not, by his actions, bestow a palpable "benefit" upon himself. What does matter is that Khoda undertook an action, while serving in his official capacity, that affected a property in which he held an economic interest. That is not permissible. I **CONCLUDE** that by doing so Khoda ran afoul of the regulations, engaged in a conflict of interest, and jeopardized his licenses.

Khoda was abundantly cautious about protecting himself regarding the ordinance's distinction between repairing or maintaining an old sign (where the ordinance would not require a permit) versus installing a new sign (where the ordinance would require a permit). While Khoda believed that the issuance of a permit was not necessary because he was not installing a new sign, his actions belied his belief. Having decided that it was necessary to take out a permit and to have the sign inspected, it became incumbent on Khoda to withdraw himself from the permit-issuing and inspection process. He could not remain involved in his official capacity in a transaction that involved a property in which he had an economic interest. By remaining involved in the process in his official capacity, Khoda ran afoul of the UCC's conflict of interest provision, N.J.A.C. 5:23-4.5(j)(1), by issuing the permit to himself and inspecting the property in which he had an economic interest. It follows, and I **CONCLUDE**, that Khoda violated N.J.A.C. 5:23-4.5(j)(1).

The Appropriate Penalty

The liability portion of the matter having been determined, the issue of the appropriateness of the penalty of revocation of all licenses remains to be decided.

The thrust of Khoda's defense on both charges is that the penalty of revocation is disproportionate to the nature of the offense. Attorney Powers argues that the penalty of revocation of one or more licenses should be deemed shocking to a reasonable person's sense of fairness. He offered various examples from case law to persuade the Tribunal that the revocation should be reversed and that a lesser penalty, if any, should be imposed.

The ORA emphasizes the fact that despite Khoda's knowledge that he was dealing with a property in which he held an economic interest, he nonetheless ignored the conflict of interest regulations, issued the permit and performed the inspection himself. Moreover, ORA underscores that there were multiple instances of Oberlies performing unauthorized inspections. Because of the impact upon public confidence in the government and the multiplicity of these actions, the ORA maintains that the revocation of all UCC-related licenses issued to Khoda should be upheld.

The Penalty for the Aiding and Abetting Charge

Khoda would have the Tribunal accept that any penalty imposed on him should take into account that he was simply unaware that the responsibility for hot water heater inspections remained with the Fire Subcode officials, when indeed the jurisdiction for said inspections had been transferred to the Plumbing/Mechanical officials. While Khoda should have kept his knowledge about changes in the regulations current, this type of failure is not egregious. Khoda also failed to check on whether Oberlies's credentials were current. However, it does not appear that Khoda blatantly or deliberately assigned work to someone whom he knew was unlicensed or unqualified to perform the work. Khoda was merely ignorant of the current state of the regulations and he merely assumed that Oberlies was currently authorized to perform the hot water heater inspections. Having concluded that Khoda did not violate N.J.A.C. 5:23-5.25(a)(1) or (a)(3), no penalty will be imposed for "aiding and abetting." However, I **CONCLUDE** that Khoda's breaches of N.J.A.C. 5:23-5.25(a)(6) and (a)(10) and N.J.A.C. 5:23-5.4(g)(3) warrant suspensions, written reprimands, and the requirement of mandatory attendance at substantive educational training designed to correct the deficiencies he exhibited, not the revocation of his licenses.

The Penalty for the Conflict-of-Interest Charge

In regard to Khoda's breach of the conflict of interest provisions of the UCC (N.J.A.C. 5:23-4.5(j)(1)), the issuance of a sign permit and Khoda's inspection of the sign that is located on his own property is a breach that imperils the public's trust in its government. See Local Government Ethics Law codified at N.J.S.A. 40A:9-22.1 et seq., notably 9-22.2 and 9-22.5(a), (c), and (d); Conflicts of Interest Law codified at N.J.S.A. 52:13B-12 to -28; and Wyzykowski v. Rizas, 132 N.J. 509 (1993). The circumstances of this case indicate that Khoda was aware of the conflict of interest regulations. Khoda chose to put his emphasis on strictly adhering to the local sign ordinances, but to treat lightly the requirements of the conflict of interest regulations. In doing so, Khoda exhibited very poor judgment. Khoda's strict discretion in following the Ordinance is not an excuse for his indiscretion in not following the Regulations. That he contacted the conflict Official in the neighboring municipality indicates that he meant to abide by both the sign ordinances and the ethical issues that were intrinsic in the matter. However, Khoda should not have assumed that by obeying the sign ordinances, he was allowed to issue a permit to himself and to inspect his own property. N.J.A.C. 5:23-4.5(j)(1) clearly prohibits officials from doing so.

The issue of whether Khoda's actions were right or wrong has already been decided. The question now is whether the overall gravity of the circumstances of this case are so egregious or so weighty that the penalty of revocation should be employed. In this case, Khoda wanted to restore his faded sign. He could have done so in a number of ways, some of which would be considered maintenance (i.e., no permit required) and others of which would be considered reconstruction (i.e., requiring a permit). The task itself was inconsequential, but the important fact to focus on is that a public official issued a permit to himself and inspected his own property. This raises a serious issue involving the public's confidence in its government and therefore, the penalty should be weighty enough to underscore the seriousness of the offense.

It is fortunate that the danger of an adverse public reaction is not likely to arise owing to the fact that Khoda's impropriety involved the mere replacing of one plastic laminate with an identical plastic laminate and not something of a greater magnitude.

I, therefore, **CONCLUDE** that Khoda's breach of N.J.A.C. 5:23-4.5(j)(1)(i) warrants the imposition of suspensions, written reprimands, and the requirement of mandatory attendance in ethics training, but not the revocation of his licenses. I **CONCLUDE** that the revocations of all of Khoda's licenses must be reversed.

ORDER

Having considered the moving papers and responding papers filed by the parties, and good cause having been shown, it is hereby

ORDERED that the Summary Decision Motion filed by the Respondent, Office of Regulatory Affairs, seeking the affirmance of the ORA's determinations and penalties is hereby **GRANTED** in part and **DENIED** in part; and it is further

ORDERED that the ORA's determination that Khoda violated N.J.A.C. 5:23-4.5(j)(1) is **AFFIRMED**, but the penalty of revocation of all of his licenses is **REVERSED** and is hereby **MODIFIED** to a penalty of certain suspensions, reprimands, and mandatory attendance at and completion of substantive and ethical education during the period of suspension, after completion of which the suspension of his licenses shall be lifted; it is further

ORDERED that the ORA's determination that Khoda violated N.J.A.C. 5:23-5.25(a)(1) and (a)(3) is **REVERSED**, but it is **ORDERED** that because Khoda violated N.J.A.C. 5:23-5.25(a)(6) and (a)(10) and N.J.A.C. 5:23-4.5(g)(3) a new set of penalties must be imposed; and it is further

ORDERED that the following sets of penalties shall be imposed:

(A) for the violation of N.J.A.C. 5:23-4.5(j)(1):

Khoda's Construction Official's license shall henceforth be suspended for 150 days, his Building Subcode Inspector's license shall henceforth be suspended for 150 days, his Building Inspector's license shall henceforth be suspended for 150 days, and his Plumbing Subcode Inspector's shall henceforth be suspended for 150 days, all four suspensions to run concurrently; and following this 150-day period of suspension,

(B) for the violations of N.J.A.C. 5:23-5.25(a)(6) and (a)(10) and N.J.A.C.

5:23-5.4(g)(3):

Khoda's Construction Official's license shall henceforth be suspended for thirty days, his Building Subcode Inspector's license shall henceforth be suspended for thirty days, his Building Inspector's license shall henceforth be suspended for thirty days, and his Plumbing Subcode Inspector's license shall henceforth be suspended for thirty days, all four suspensions to run concurrently; it being understood that the combined period of suspension for Khoda's violations of N.J.A.C. 5:23-4.5(j)(1); N.J.A.C. 5:23-5.25(a)(6); N.J.A.C. 5:23-5.25(a)(10); and N.J.A.C. 5:23-5.4(g)(3) totals 180 days, no less, no more; and it is further

ORDERED that the Department of Community Affairs, Division of Codes and Standards shall immediately prescribe a course of educational instruction for Khoda to attend and complete, and which shall be designed to be finished at least one week before the end of the 180-day suspension period imposed on Khoda's licenses, and which instruction shall include both substantive and ethical subject matter, and which instruction shall be designed to correct the deficiencies which led to the suspension of said licenses; and it is further

ORDERED that the Department of Community affairs shall issue a written reprimand and place same in Khoda's permanent job file within the next sixty days.

I hereby **FILE** my initial decision with the **COMMISSIONER OF THE DEPARTMENT OF COMMUNITY AFFAIRS** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF COMMUNITY AFFAIRS**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Community Affairs does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF COMMUNITY AFFAIRS, South Broad and Front Streets, PO Box 800, Trenton, New Jersey 08625-0800**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

July 15, 2019
DATE


JOHN P. SCOLLO, ALJ

Date Received at Agency:

July 15, 2019

Date Mailed to Parties:
db

July 15, 2019

APPENDIX

Petitioner's Exhibits:

P-1 Color photocopy of photograph of subject sign at 33 Westfield Avenue

Respondent's Exhibits:

R-1 Joint Stipulation of Facts dated January 23, 2019

R-2 The November 15, 2017, Notice of Violation and Order to Revoke

R-3 to R-19 Not in evidence

R-20 Figueirido's Certification only



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

101 SOUTH BROAD STREET
PO Box 800

TRENTON, NJ 08625-0800
(609) 292-6420

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

October 15, 2019

Via Regular Mail

Lawrence P. Powers
Hoagland, Longo, Moran, Dunst & Doukes LLP
40 Patterson Street
New Brunswick, New Jersey 08901

Steven M. Gleeson
Deputy Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
PO Box 112
Trenton, New Jersey 08625-0112

Via Electronic Mail

lpowers@hoaglandlongo.com
steven.gleeson@law.nj.oag.gov

Re: Michael Khoda v Office of Regulatory Affairs
OAL Docket No. CAF 12975-18.

Dear Parties:

Enclosed please find a copy of the Final Agency Decision in the matter referenced above. Should you wish to appeal from this Decision, you have the right to take an appeal with the Appellate Division of the Superior Court [Rules Governing the Courts of New Jersey, 2:2-3(a)(2)]. You must do so, however, within 45 days from the date of service of this Decision.

Sincerely,

Donald Palombi
Chief Regulatory Officer

Enclosure





**STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS**

FINAL AGENCY DECISION

OAL DKT. NO. CAF 12975-18
AGENCY DKT. NOS. ORA-234-17
CI-050-15; OR -004-17

MICHAEL KHODA

Petitioner

v.

OFFICE OF REGULATORY AFFAIRS

Respondent,

Having reviewed the Initial Decision entered in this matter, as well as the exceptions filed by Petitioner Michael Khoda, the exceptions filed by Respondent Office of Regulatory Affairs ("ORA"), and the response to ORA's exceptions filed by Petitioner, I HEREBY ADOPT the findings of fact in the Initial Decision and MODIFY the Initial Decision as set forth in detail below.

This case arose as the result of ORA's Notice of Violation and Order to Revoke, dated November 15, 2017 (R-2), issued to Khoda. The revocation applies to the following licenses held by Khoda: Construction Official, Building Subcode Official, Building Inspector HHS, Plumbing Subcode Official, Plumbing Inspector H.H.S., and Fire Protection Inspector I.C.S..

The Notice is premised on two separate sets of actions taken by Khoda. First, while serving as Construction Official for the Township of Clark, Khoda performed code inspection enforcement, including plan review and issuance of a permit, at a business that he owned located within the Township, thus constituting a conflict of interest in violation of N.J.A.C. 5:23-4.5(j)(1). Second, Khoda directed a subordinate, Frank Oberlies, to conduct eight separate plumbing inspections within the Township, although Oberlies lacked the necessary license to perform those inspections, in violation of N.J.A.C. 5:23-5.25(a)(1) and (3).

On January 23, 2019 the parties each filed with the OAL pre-marked exhibits, as well as a joint stipulation of facts (R-1). On January 29, 2019, Respondent ORA filed with the OAL a motion for summary decision, citing to the pre-marked exhibits and joint stipulation of facts, and attaching an additional exhibit. On February 15, 2019 Khoda filed a response, with attached exhibits, and ORA filed a reply on February 21, 2019.

In the Initial Decision, dated July 15, 2019, the Administrative Law Judge ("ALJ") John P. Scollo determined that the case was appropriate for summary decision, as there were no disputed issues of material fact (Initial Decision, page 11).

Conflict of Interest

The ALJ found as fact that Khoda was the owner of commercial property located in Clark (Initial Decision page 4). The issue in question related to an exterior sign on the premises; Khoda made the decision to replace a portion of the sign (Initial Decision page 5). "Out of an abundance of caution," and cognizant of the conflict provisions of the regulations, Khoda consulted with Arthur Figueirido, the Linden Township Construction Official, who served as the conflict inspector for Clark (*Ibid.*) Figueirido advised that no permit or inspection was needed as the work contemplated constituted "ordinary repair" work (Initial Decision pages 5-6; Ra20). Despite this, Khoda elected to issue a permit to himself, pay the required permit fee, and perform the work himself (Initial Decision page 6).

Based on these facts, the ALJ upheld ORA's conclusion that Khoda had violated N.J.A.C. 5:23-4.5(j)(1). That provision states that no person employed in an enforcing office shall carry out any inspection or enforcement proceeding with respect to any property or business in which he or she, or a close relative, has an economic interest. Here, Khoda admittedly had an economic interest in the property in question. And, he admittedly issued the permit to himself. Khoda's explanation, as noted above, is that the repair work he issued the permit for was ordinary repair work that did not even require a permit, as confirmed by Figueirido. However, this is besides the point. An enforcing agency cannot operate in a manner in which public officials are seen to issue permits to themselves, thus undermining public confidence in the fair operation of that office. Once Khoda decided that a permit would be issued, whatever the reason, it was incumbent on him to withdraw from the process. I thus ADOPT the ALJ's conclusion that Khoda violated N.J.A.C. 5:23-4.5(j)(1).

Aiding and Abetting

The Notice of Violation also cited Khoda for directing Frank Oberlies to conduct plumbing inspections within the Township, although Oberlies lacked the necessary license to perform the inspections, in violation of N.J.A.C. 5:23-5.25(a)(1) and (3). Oberlies worked as a subordinate to Khoda in the local enforcing agency as the Fire Subcode Official (R-1 paragraph 8). In 2015, Khoda "directed" Oberlies to perform

plumbing subcode inspections on eight properties in Clark (Initial Decision page 6; R-1 paragraph 9). Khoda believed, based on past experience, that Oberlies was capable of performing such plumbing inspections (Initial Decision page 6). More importantly, Khoda believed that Oberlies was permitted to do the inspections by virtue of his fire subcode license (Ibid.) Khoda stated that he was unaware, until later advised by DCA staff, that the responsibility for such inspections had been transferred by regulation exclusively to mechanical/plumbing subcode officials (Initial Decision page 6; Khoda's answers to interrogatories paragraph 16; see also N.J.A.C. 5:23-3.4(d)).

In its Notice of Violation, ORA cited Khoda for violations of N.J.A.C. 5:23-5.25(a)(1) and (a)(3). Section (a)(1) provides that an official's license may be revoked or suspended for any violation of the Uniform Construction Code ("UCC") regulations. Section (a)(3) provides that it is a violation if any code official has "aided or abetted in practice as a licensed code enforcement official or certified special inspector any person not authorized to practice as a licensed code enforcement official or certified special inspector under the provisions of these regulations."

The ALJ concluded that Khoda had not violated Sections (a)(1) or (a)(3). He accepted Khoda's explanation of the reasons behind his actions in directing Oberlies to perform the inspections. Thus, the ALJ found that there was insufficient proof that Khoda had "knowingly" assigned an unlicensed person to perform inspections (Initial Decision pages 12 and 14). However, the ALJ went on to find that Khoda's statement was an admission that he had failed to properly keep his knowledge of the UCC regulations current (Initial Decision page 11). He thus found that Khoda had violated N.J.A.C. 5:23-5.25(a)(6) (failure to maintain a minimally acceptable level of competence) and (a)(10) (engaging in conduct that demonstrates incompetency). The ALJ also found that Khoda had violated N.J.A.C. 5:23-5.4(g)(3) (by virtue of the office employing an unlicensed person).

I HEREBY MODIFY the ALJ's legal conclusions. I ADOPT the ALJ's determination that, rather than violating N.J.A.C. 5:23-5.25(a)(3) (the "aiding and abetting" provision of the regulations) that Khoda shall be found to have violated the two provisions cited by the ALJ dealing with competency (N.J.A.C. 5:23-5.25(a)(6) and (10)). Whatever Khoda's explanation, it is essential that all local enforcement officials are current on their knowledge of the UCC regulations. This is of particular importance here, as Khoda served as the Construction Official for Clark and thus was responsible for the entire operation of the local office. His failure to keep apprised of changes in the regulations resulted in a subordinate being assigned inspections that he lacked the appropriate license to perform.

I REJECT the ALJ's analysis as to why the "aiding and abetting" provision shall not be applied in this case. As noted above, the ALJ states that there was insufficient evidence that Khoda "knowingly" assigned an unlicensed person to perform inspections (Initial Decision pages 12 and 14). However, as ORA points out in its exceptions, the regulation in question, N.J.A.C. 5:23-5.25(a)(3), does not require knowledge as an element of the

violation (ORA exceptions page 11). As ORA correctly states, there are other provisions of the UCC regulations that specifically require knowledge, such as the conflict provision. Thus, my determination that Khoda shall not be found to be in violation of N.J.A.C. 5:23-5.25(a)(3) is based on the unique facts of this particular case, not on a reading of that provision that would incorporate a knowledge requirement.

In addition, the ALJ found that Khoda had not violated 5:23-5.25(a)(1). This provision provides that the Department may impose a penalty where an individual has "violated the provisions of the [UCC] regulations," and is certainly still applicable in this case, as Khoda has been found in violation of a number of different provisions, including the two competency provisions and the conflict provision. Thus, I REJECT the ALJ's conclusion in this regard. The ALJ also found that Khoda violated N.J.A.C. 5:23-5.4(g)(3) by employing an unlicensed person (apparently based on a belief that Oberlies had let his license lapse (Initial Decision page 12)). However, both parties agree that this was not the case (Khoda's exceptions, and ORA exceptions pages 10-11). In light of this, and the fact that it is not necessary to my decision, I REJECT this finding by the ALJ.

Thus, in conclusion, I am modifying the ALJ's decision regarding the incident involving Oberlies. I will adopt the ALJ's conclusions that Khoda did not violate N.J.A.C. 5:23-5.25(a)(3), but that he did violate N.J.A.C. 5:23-5.25(a)(6) and (10), for the reasons explained above. I reject the ALJ's conclusion that Khoda did not violate N.J.A.C. 5:23-5.25(a)(1), and his conclusion that Khoda did violate N.J.A.C. 5:23-5.4(g)(3).

Penalty

Finally, there is the issue of the appropriate penalty for the multiple violations. ORA in its Notice of Violation revoked all of the licenses held by Khoda and listed above. The ALJ modified that penalty. Instead of revocation, he imposed license suspensions, written reprimands, and attendance at educational training designed "to correct the deficiencies [Khoda] exhibited" (Initial Decision, pages 14 and 16-17). Specifically, for the violation of N.J.A.C. 5:23-4.5(j)(1) the ALJ ordered: suspension of Khoda's Construction Official, Building Subcode Inspector, Building Inspector, and Plumbing Subcode Inspector licenses for 150 days, to run concurrently. For the other violations, he ordered suspension of the same four licenses for a period of 30 days, to run concurrently, but consecutive to the N.J.A.C. 5:23-4.5(j)(1) violation. The total period of suspension for all violations was thus 180 days. In addition, the ALJ ordered that DCA prescribe a course of educational instruction for Khoda, to include both substantive and ethical subject matter, designed to correct the deficiencies he had exhibited, and to conclude at least one week prior to the end of the 180-day suspension period. Finally, the ALJ ordered that a written reprimand be placed in Khoda's file by the Department.

I HEREBY MODIFY the ALJ's penalty. I will adopt the 180-day period of suspension as follows. The license suspension will apply to all of the licenses listed in the Notice of Violation: Construction Official, Building Subcode Official, Building Inspector H.H.S.

(including I.C.S. and R.C.S.), Plumbing Subcode Official, Plumbing Inspector H.H.S. (including I.C.S. and R.C.S.), and Fire Protection Inspector I.C.S. ORA is instructed to determine the appropriate instruction Khoda is to undergo and to advise him accordingly within 10 days of the date of this decision. And, Khoda is to complete the instruction during the 180-day suspension of his licenses. Finally, a written reprimand related to the UCC violations in this matter shall be placed in Khoda's file.

Date:

10/15/19



Lt. Governor Sheila Y. Oliver
Commissioner

Luckie, Terence [DCA]

From: Hilzer, Robert
Sent: Wednesday, February 19, 2020 2:06 PM
To: Lawrence P. Powers; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com); const@ourclark.com
Cc: Steven Gleeson; Delesandro, John; Ryan, Patrick; mikekhoda02@gmail.com; Luckie, Terence; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS (albion-M6186826-C6483210@hoaglandlongo.com); 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com)
Subject: RE: Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

Mr. Powers and Mr. Khoda: Pursuant to the final decision in the above referenced matter, the three (3) UCC Continuing Education Courses Mr. Khoda should take in the Spring 2020 semester are: A728 The Code Official Playbook , A729 Ethics in Public Life and D347 The Daily Functions Of The Building Subcode Official. If you have any questions concerning these requirements, feel free to contact me at Robert.Hilzer@dca.nj.gov or at (609) 984-7672.

From: Lawrence P. Powers <lpowers@hoaglandlongo.com>
Sent: Monday, February 03, 2020 3:50 PM
To: Hilzer, Robert <Robert.Hilzer@dca.nj.gov>; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com) <JJT@TBWDlaw.com>; const@ourclark.com
Cc: Steven Gleeson <Steven.Gleeson@law.njoag.gov>; Delesandro, John <John.Delesandro@dca.nj.gov>; Ryan, Patrick <Patrick.Ryan@dca.nj.gov>; mikekhoda02@gmail.com; Luckie, Terence <Terence.Luckie@dca.nj.gov>; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS (albion-M6186826-C6483210@hoaglandlongo.com) <albion-M6186826-C6483210@hoaglandlongo.com>; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com) <JJT@TBWDlaw.com>
Subject: [EXTERNAL] RE: Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

Mr. Hilzer – I understand that the Spring catalog is out. Please advise what other two courses my client should take to satisfy the CE condition of his suspension. Thanks.

Janet – Please diary for f/u next Monday. Thanks.



Lawrence P. Powers | Co-Chair - Construction Law Department
Hoagland, Longo, Moran, Dunst & Doukas, LLP
40 Paterson Street | P.O. Box 480 | New Brunswick, NJ 08903
T: 732-545-4717 | F: 732-545-4579 | C: 908-392-0940

lpowers@hoaglandlongo.com | www.hoaglandlongo.com

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From: Lawrence P. Powers [<mailto:lpowers@hoaglandlongo.com>]
Sent: Wednesday, December 11, 2019 11:59 AM
To: Hilzer, Robert; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com); const@ourclark.com
Cc: Steven Gleeson; Delesandro, John; Ryan, Patrick; mikekhoda02@gmail.com; Luckie, Terence; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS (albion-M6186826-

C6483210@hoaglandlongo.com)

Subject: Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

Thank you, sir.

Mike – FYI.



Lawrence P. Powers | Co-Chair - Construction Law Department
Hoagland, Longo, Moran, Dunst & Doukas, LLP

40 Paterson Street | P.O. Box 480 | New Brunswick, NJ 08903

T: 732-545-4717 | F: 732-545-4579 | C: 908-392-0940

lpowers@hoaglandlongo.com | www.hoaglandlongo.com

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From: Hilzer, Robert [<mailto:Robert.Hilzer@dca.nj.gov>]

Sent: Wednesday, December 11, 2019 11:55 AM

To: Lawrence P. Powers; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com); const@ourclark.com

Cc: Steven Gleeson; Delesandro, John; Ryan, Patrick; mikekhoda02@gmail.com; Luckie, Terence; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS ([albion-M6186826-C6483210@hoaglandlongo.com](#))

Subject: RE: Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

Mr. Powers: Thank you for the updated information about Mr. Khoda. I will be advising him about the CEU courses he should take when the brochure for the Spring 2020 semester becomes available.

From: Lawrence P. Powers <lpowers@hoaglandlongo.com>

Sent: Wednesday, December 11, 2019 10:36 AM

To: Hilzer, Robert <Robert.Hilzer@dca.nj.gov>; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com)

Cc: Steven Gleeson <Steven.Gleeson@law.njoag.gov>; Delesandro, John <John.Delesandro@dca.nj.gov>; Ryan, Patrick <Patrick.Ryan@dca.nj.gov>; mikekhoda02@gmail.com; Luckie, Terence <Terence.Luckie@dca.nj.gov>; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS ([albion-M6186826-C6483210@hoaglandlongo.com](#)) <[albion-M6186826-C6483210@hoaglandlongo.com](#)>

Subject: [EXTERNAL] Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

Mr. Hilzer – I represent Mike Khoda. I am in receipt of your e-mailed letter (below) of December 11th. Please be advised that Mr. Khoda began serving his suspension on October 15th, upon his initial receipt of the Commissioner's Decision. I can ask the Township of Clark to verify that for you, should you deem that necessary. Accordingly, his period of suspension will end on April 12, 2020. Mr. Khoda intends to take the full day ethics course to satisfy one of the Continuing Education Seminar obligations. Please be kind enough to identify at least two other courses that the Department would deem to satisfy the other two course obligations. Thank you for your attention to this request.



Lawrence P. Powers | Co-Chair - Construction Law Department
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40 Paterson Street | P.O. Box 480 | New Brunswick, NJ 08903
T: 732-545-4717 | F: 732-545-4579 | C: 908-392-0940

lpowers@hoaglandlongo.com | www.hoaglandlongo.com

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From: Hilzer, Robert [<mailto:Robert.Hilzer@dca.nj.gov>]

Sent: Wednesday, December 11, 2019 10:08 AM

To: mkhoda@ourclark.com

Cc: Lawrence P. Powers; Steven Gleeson; Delesandro, John; Ryan, Patrick; Luckie, Terence

Subject: Emailing - 2539_001.pdf License No.005189

Mr. Khoda: Attached please find copy of the Final Decision of the Commissioner of the Department of Community Affairs in the action taken against you by the Office of Regulatory Affairs. Said decision suspends all of your Uniform Construction Code licenses for a period of one hundred and eighty (180) days. You are directed to begin serving your suspension no later than February 1, 2020. During the suspension period you cannot perform in any capacity which requires a Uniform Construction Code license. Also, as per the decision, you must take three (3) Continuing Education Seminars during the suspension period which relate to the findings contained in the Final Decision. As per the Final Decision, this email will serve as the reprimand required by said decision. If you have any questions concerning the above, feel free to contact me at Robert.Hilzer@dca.nj.gov or at (609)984-7672.

Luckie, Terence [DCA]

From: Lawrence P. Powers <lpowers@hoaglandlongo.com>
Sent: Wednesday, December 11, 2019 10:36 AM
To: Hilzer, Robert; mkhoda@ourclark.com; 'JJT@TBWDlaw.com' (JJT@TBWDlaw.com)
Cc: Steven Gleeson; Delesandro, John; Ryan, Patrick; mikhoda02@gmail.com; Luckie, Terence; Michael Khoda / DCA Regulatory Affairs Investigation[6186826 - LPP] [6186826 - LPP] - STATUS LETTERS (albion-M6186826-C6483210@hoaglandlongo.com)
Subject: [EXTERNAL] Mike Khoda / License No.005189 - Date of Suspension Notice and Course Inquiry

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Hoagland, Longo, Moran, Dunst & Doukas, LLP
40 Paterson Street | P.O. Box 480 | New Brunswick, NJ 08903
T: 732-545-4717 | F: 732-545-4579 | C: 908-392-0940

lpowers@hoaglandlongo.com | www.hoaglandlongo.com

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From: Hilzer, Robert [mailto:Robert.Hilzer@dca.nj.gov]
Sent: Wednesday, December 11, 2019 10:08 AM
To: mkhoda@ourclark.com
Cc: Lawrence P. Powers; Steven Gleeson; Delesandro, John; Ryan, Patrick; Luckie, Terence
Subject: Emailing - 2539_001.pdf License No.005189

Mr. Khoda: Attached please find copy of the Final Decision of the Commissioner of the Department of Community Affairs in the action taken against you by the Office of Regulatory Affairs. Said decision suspends all of your Uniform Construction Code licenses for a period of one hundred and eighty (180) days. You are directed to begin serving your suspension no later than February 1, 2020. During the suspension period you cannot perform in any capacity which requires a Uniform Construction Code license. Also, as per the decision, you must take three (3) Continuing Education Seminars during the suspension period which relate to the findings contained in the Final Decision. As per the Final Decision, this email will serve as the reprimand required by said decision. If you have any questions concerning the above, feel free to contact me at Robert.Hilzer@dca.nj.gov or at (609)984-7672.

Luckie, Terence [DCA]

From: Hilzer, Robert
Sent: Monday, October 5, 2020 9:23 AM
To: mikekhoda02@gmail.com
Cc: Lawrence Powers; Steven Gleeson; Delesandro, John; Luckie, Terence
Subject: Fw: Mike Khoda
Attachments: image001.png

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Khoda: Please be advised since you completed the required UCC seminar on October 2nd, you have fully complied with the terms of the decision in your case. Thank you for your cooperation in resolving this matter.

From: Lawrence P. Powers <lpowers@hoaglandlongo.com>
Sent: Thursday, August 13, 2020 9:34 AM
To: Hilzer, Robert <Robert.Hilzer@dca.nj.gov>
Cc: mikekhoda02@gmail.com <mikekhoda02@gmail.com>; Steven Gleeson <Steven.Gleeson@law.njoag.gov>; Delesandro, John <John.Delesandro@dca.nj.gov>; Luckie, Terence <Terence.Luckie@dca.nj.gov>
Subject: [EXTERNAL] Re: Mike Khoda

Thank you, Mr. Hilzer.

Sent from my iPhone

On Aug 13, 2020, at 9:11 AM, Hilzer, Robert <Robert.Hilzer@dca.nj.gov> wrote:

Mr. Khoda: See below concerning the UCC Seminar you are required to complete as per the decision in your case.

From: Delesandro, John <John.Delesandro@dca.nj.gov>
Sent: Thursday, August 13, 2020 8:56 AM
To: Hilzer, Robert <Robert.Hilzer@dca.nj.gov>
Subject: Mike Khoda

Bob,

I've scheduled the Code Official Playbook 2020 for Friday October 2, 2020. The date is confirmed with the instructors; however, the courses aren't yet loaded for registering. They should be good to go by the 28th. Same registration link <http://tiny.cc/UCCOnline>. He should keep an eye on his email, I will be sending a mass email once they're ready.

Let me know if you have questions.

JD

John A. Delesandro

Supervisor of Enforcement
Division of Codes and Standards
P.O. Box 802
Trenton, NJ 08625-0802
609-984-7834
FAX: 609-633-6729

<image001.png>

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