

FILED
Florida Engineers Management Corp
CLERK Rebecca Valente
DATE 4/21/2022

FILED	
Department of Business and Professional Regulation	
AGENCY CLERK	
CLERK	Ronda L. Bryan
Date	4/21/2022
File #	2022-03254

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

In Re: W. Denny Pate
Settlement Agreement

FEMC Case No. 2018047511

FINAL ORDER ADOPTING SETTLEMENT AGREEMENT


THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 14, 2022 Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as “Exhibit A to Final Order”) entered into between the parties in this cause. Upon consideration of the stipulation, the documents submitted in support thereof, and the arguments of the parties, it is hereby:

ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby adopted *in toto* and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement.

This Final Order shall take effect upon being filed with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 21 day of April, 2022.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS



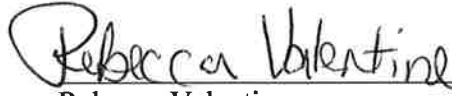
Zana Raybon (Apr 21, 2022 11:06 EDT)

Zana Raybon, Executive Director
For Scott Drury, P.E., CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing filed *Final Order Adopting Settlement Agreement* has been furnished by U.S. First Class Mail and email to W.

Denny Pate, P.E. by service upon his attorney of record: J. Michael Huey, Esquire at Gray
Robinson P.A., 301 South Bronough Street, Tallahassee, Florida 32301 and [mike.huey@gray-
robinson.com](mailto:mike.huey@gray-
robinson.com) this 21 day of April, 2021.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

In Re: Settlement Agreement

FEMC Case No. 2018047511

SETTLEMENT AGREEMENT

W. DENNEY PATE, P.E., Licensee, and the Florida Engineers Management Corporation, FEMC, as the investigatory and prosecutorial arm of the Florida Board of Professional Engineers (Board) stipulate and agree to the following terms in settlement of the above referenced case and to issuance of a Final Order by the Board approving this settlement.

1. FEMC and Licensee waive consideration of this case by the Board's Probable Cause Panel for the sole purpose of this agreement being considered by the Board. If the Board does not approve this settlement in a Final Order the matter will be rescheduled for consideration by the Probable Cause Panel without prejudice to either party.

2. Upon the Board's issuance of a Final Order approving this settlement Licensee will voluntarily relinquish his engineering license (PE License No. 34332) and waive all right or entitlement to reapply for licensure in the State of Florida.

3. In order for this Settlement to be considered by the Board without any finding of probable cause by the Board's Probable Cause Panel it is agreed that all obligations and rights of confidentiality as to the investigation records of FEMC, its report, and all materials submitted by the Licensee in response or rebuttal are waived as of the date of execution of this Settlement. By agreeing to this waiver, Licensee understands that the above referenced documents become public record and that this information is immediately accessible to the public, see Section 455.225(10) Florida Statutes.

4. Licensee's Statement, which is part of this Settlement, is attached. FEMC takes no position regarding this Statement but agrees that Licensee disputes any allegations in any complaints, reports or other materials pertaining to this case that Licensee has violated any provisions of Chapter 471 or Rules of the Board; and, that nothing herein constitutes any admission of any such violation.

5. The sole purpose of this Settlement is to resolve this matter without further administrative action. It is understood that regardless of there being no determination of probable cause for an administrative complaint to be filed, the Board's approval of this Settlement and issuance of a Final Order incorporating its terms is pursuant to the Board's disciplinary authority under Chapter 471 and is governed by Section 455. 227(1)(f), Florida Statutes.

6. Upon execution of this Settlement, Licensee's license will remain in its present status until such time as this Settlement is presented to the Board and the Board issues a written final order in this matter.

7. Upon the Board's issuance of a Final Order accepting this settlement, Licensee waives all rights to seek judicial review of, or otherwise challenge the validity of, this agreement or the Final Order of the Board.

8. Upon the Board's issuance of a Final Order accepting this settlement, each party shall bear its own attorney's fees and costs related to this matter.

9. The Board's review of the FEMC investigative file materials for the purpose of consideration of this settlement shall not be the basis for any claim of prejudice or any attempt to preclude the Board or its members from further participation in the resolution of this matter if this settlement is not accepted and approved in a Final Order.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

DATED this 18th day of March, 2022.

W. Denny Pate

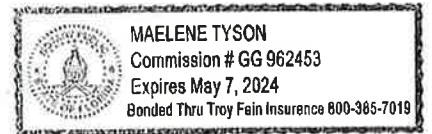
W. Denny Pate
Case No. 2018047511

STATE OF FLORIDA
COUNTY OF:

Before me, personally appeared W. Denny Pate, whose identity is known to me by Florida Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 18th day of March, 2022.

My Commission Expires:

Maeleue Tyson
NOTARY PUBLIC



APPROVED this 18 day of March, 2022.

Zana Raybon, Executive Director
Florida Board of Professional Engineers

[Signature]
BY: John J. Rimes, III
Chief Prosecuting Attorney

STATEMENT ON BEHALF OF W. DENNEY PATE

In connection with the Florida Board of Professional Engineers' (FBPE) consideration of this Settlement Agreement, the following pertinent information is offered on behalf of W. Denney Pate, P.E:


1. Mr. Pate has been a licensed professional engineer in the State of Florida since February, 1984 and has also been licensed as a professional engineer in 21 other states. To his knowledge the complaint filed in this matter is the only complaint regarding his engineering services ever filed with any licensing board .
2. Mr. Pate has provided the Florida Engineers Management Corporation (FEMC) with his professional biography evidencing his experience and achievements as a nationally-renowned bridge designer. His bridge designs have resulted in more than 400 awards for excellence including two Presidential Awards through the National Endowment for the Arts. And, he is the only living bridge engineer honored by the American Roads & Transportation Builders' Association in the top 100 Private Sector Transportation Design & Construction Professionals of the 20th Century.
3. Mr. Pate retired from his employment as a bridge engineer in December, 2020, and discontinued offering or rendering engineering services at that time.
4. All civil proceedings involving the construction accident at issue have been resolved without any finding of liability or fault by Mr. Pate or his employer.
5. On October 4, 2021, Mr. Pate provided FEMC with the 128-page comprehensive forensic engineering report prepared by Wiss, Janney Elstner Associates, Inc.(WJE) – signed and sealed by Florida-licensed professional engineer, Gary J. Klein P.E. WJE began its investigation within a week of the accident and – through examination of the construction plans, the construction debris and laboratory testing – determined that the construction plans were in accordance with the applicable codes and that the cause of the accident was a failure of a critical element of the bridge to have been constructed in accordance with the construction plans and specifications prepared by Mr. Pate.
6. On the same date Mr. Pate provided voluminous other documents including a detailed, documented account of the information provided to him by on-site construction personnel and his responses to that information in connection with the condition of the bridge before the accident.
7. On December 21, 2021, Mr. Pate submitted Mr. Klein's rebuttal opinion to portions of the FEMC Investigative Report along with the opinion of Charles. H. Thornton, Ph. D., P.E. reaffirming the code compliance of the construction plans and specifications and the cause of the accident. Mr. Klein and Dr. Thornton are recognized as two of the most accomplished forensic structural engineers in the United States. They have both been elected to the preeminent National

Academy of Engineering in Washington, D.C. Their detailed biographical information was provided to FEMC.

8. Mr. Pate relies on the WJE Report – signed, sealed and defended by Mr. Klein, the expert opinion of Dr. Thornton, along with his own reevaluation of the construction plans and specifications – in denying any claims or criticisms regarding the engineering adequacy of the plans and specifications. Further, he relies on his documented account of the information provided to him regarding on-site construction conditions and his responses to that information in denying any claims that he failed to appropriately exercise his engineering judgment and duties as Engineer of Record for the project.

9. Mr. Pate has been made aware of the lengthy and costly litigation process involved in adjudication of this matter through a formal hearing before an administrative law judge pursuant to Chapter 120 Florida Statutes. Mr. Pate has agreed to the terms of the Settlement Agreement to allow closure of this matter for both parties.

10. Mr. Pate has the highest respect for FBPE and its regulatory role, and at all times he has cooperated with FEMC's investigation of this matter.


J. Michael Huey
Gray Robinson, P.A.
Counsel for W. Denney Pate, P.E.