



Florida Board of Professional Engineers

Second Quarter 2010

The Florida Legislature found that it was necessary in the interest of public health and safety to regulate the practice of engineering in the State of Florida and thus created Chapter 471, Florida Statutes, the Engineering Registration Law. Under this law the Florida Board of Professional Engineers is responsible for reviewing applications, administering examinations, licensing qualified applicants, and regulating the practice of engineering throughout the state.

Chair's Corner

I want to welcome **Richard Scott Batterson, P.E.** and **Warren G. Hahn, P.E.** to the Florida Board of Professional Engineers. With appointment of Mr. Batterson and Mr. Hahn the Board returns to full complement of eleven members.

Mr. Batterson fills the civil engineering position formerly held by Paul Tomasino, P.E. Mr. Batterson holds the position of Chief Engineer with Professional Engineering Consultants, Orlando, Florida. Mr. Batterson received a Bachelor of Science in Civil Engineering from the University of Florida. He is licensed as a Professional Engineer and is a Certified LEED Professional. Mr. Batterson is a member of the Board of Zoning Adjustment for the City of Orlando, Urban Orlando Community Development District. He is a member of the Florida Engineering Society and numerous other engineering and civic organizations.



John Burke
Chairman of the Board
FBPE

Mr. Hahn fills the mechanical position formerly held by Mr. Paul Halyard, P.E. Mr. Hahn is the owner of Hahn Engineering, Inc, Tampa, Florida. Mr. Hahn holds a degree from Marquette University and a Bachelor of Science in Mechanical and Electrical Engineering from the US Naval Academy. Mr. Hahn served in the US Navy and the US Marine Corp. and he has over 48 years of experience in Mechanical and Electrical Engineering. He has been instrumental in the introduction and development of Direct Digital Control systems in Florida. He has written and published several articles on engineering. Mr. Hahn is a member of the Florida Engineering Society and numerous

other engineering and civic organizations.

Our Board schedules six meetings each year along with various committee meetings. Service to the Board and the profession requires commitment. Accepting the appointment as a member is evidence of their commitment to the State of Florida and to the profession.

Executive Director's Message

Special Recognition

Mr. Paul Halyard, P.E. recently completed his term on the Florida Board of Professional Engineers. On behalf of the Board and FEMC staff, I want to thank Mr. Halyard for his service to the Board and the profession through attendance and participation in many Board meetings and his service on the Probable Cause Panel, Application Committee. We wish him well in his future endeavors.



**Carrie A. Flynn
Executive Director**

NCEES revises the structural examination

For specific details on the change visit NCEES.org. The change in examination format is effective with the April 2011 examination. This change affects future applicants for initial licensure by examination. When applying the applicant must determine their discipline of examination, they can choose the general civil or structural. Applicants selecting the discipline of structural engineering will have to complete a 16 hour structural examination focusing on vertical and lateral forces. Passing this examination may assist in application by endorsement in those states which require a special structural examination for licensure in their state.

If you are licensed in Florida and are interested in sitting for this examination once it is offered you may apply with the application for additional discipline. You will not receive an additional license card, however; your record will be updated with the information.

Complaints

I would like to call your attention to the detailed article on the complaint process. This article provides useful information regarding the complaint process.

Public Record Requests

Please be advised that pursuant to Chapter 119, Florida Statutes, FBPE must comply with all request

for public records. Responses to these requests may include names, addresses, phone numbers and email addresses of engineers or engineering firms. By providing this information, FBPE in no way sanctions or endorses any particular individual or organization that may use the public record data in their business activities. Once the public record data is provided to a member of the public pursuant to a public record request neither FEMC or the FBPE may limit the use of such information.

UPDATE ON RENEWAL 2011-2013

Renewal for Florida Engineers and Engineering Businesses is rapidly approaching. **All current licenses and certificates will expire at midnight on February 28, 2011.**

REMINDER POSTCARD: Licensees will be mailed a reminder postcard on or about October 31, 2010 regarding renewal of license for 2011-2013 - see sample below.



Please be sure to update your mailing address with the Board to ensure receipt of this vital renewal information.

Two convenient ways to renew: By Mail and Online

ONLINE RENEWAL: After November 12, 2010, you will be able to renew your license online at www.myfloridalicense.com. All continuing education credits will be reported by your provider, as self reporting is no longer available. Credit cards will be accepted with ONLINE renewals only. We encourage on-line renewal as it is the most expedient method of renewal. With online renewal you

pay your fee and receive confirmation of completion of the renewal in one process. ONLINE renewal is an option for active and delinquent licenses.

PAPER RENEWAL: You will not receive a renewal form by mail - only the reminder postcard. If you decide to renew by mail, you may visit our website at www.fbpe.org to download a renewal form or call the Board office at (850) 521-0500 to request a form be mailed to you. If you choose to renew by mail, please fill out your renewal form completely and return it to the Board office with the correct payment. Please send check or money order. No credit card payments will be accepted by mail. Incomplete forms or incorrect payments will not be processed and will be returned to you. If you mail in your renewal form, do not enclose Certificates of Completion or other documentation regarding your continuing education. You should retain this documentation in your own records for a minimum of two renewal cycles (four years).

RENEWAL FEES: For the 2011-2013, the renewal fees will be \$130 (\$125 or renewal and \$5.00 unlicensed activity fee) for PE licenses and \$130 (\$125 or renewal and \$5.00 unlicensed activity fee) for Certificates of Authorization.

DELINQUENT FEES: If you failed to renew during the last renewal period, your license is delinquent and you will be required pay the \$5.00 renewal fee and the \$100 delinquent fee and show proof of 8 hours of continuing education for the previous renewal period (2009-2011). In addition, you will be required to pay the fee for the current renewal period (2011-2013) of \$130, for a total of \$235 for both renewal periods, as well show proof of 8 hours of continuing education for the current period. The application for delinquent renewal is available from our website or you may renew on-line. If you fail to pay the delinquent fee and fail to renew for the 2009-2011 period, your license will become NULL and VOID at midnight on February 28, 2011. If your license enters null and void status, you will be required to re-apply for licensure in the State of Florida.

CONTINUING EDUCATION: Continuing Education is a requirement for renewal and hours must be obtained from Board-approved providers. You must evidence four (4) hours in Laws and Rules and four (4) hours in your area of practice. Professional Engineers cannot self report their continuing education hours. License holders should verify their license status and confirm entry of the required continuing education hours by the provider from which you completed the hours. You may view your continuing education by logging into your account and clicking on "View Continuing Ed." If you do not see your credits, please contact your course provider. If the course provider does not respond or they have problems with the process, advise them to contact our office.

CERTIFICATES OF AUTHORIZATION: If you are the qualifying engineer for a Certificate of Authorization, please be sure you renew immediately upon the opening of the renewal cycle. This will allow the renewal of the Certificates of Authorization by February 28, 2011. The Certificate of Authorization can only renew after the qualifying engineer has renewed their professional license. If the qualifying engineer fails to renew their license, their license becomes delinquent as well as the Certificate of Authorization.

LAWS AND RULES CREDIT FOR BOARD MEETING ATTENDANCE: As previously advised in past newsletters, this practice was discontinued as of December 2008. Engineers are no longer able to gain laws and rules credit for attendance of the second day of the Board meetings (disciplinary

portion).

If you encounter problems, please notify our office. In this process, please keep in mind the steps we must follow in resolving any problem with your account. Some problems can be resolved by our staff. Other problems require a process of contact with the Department of Business and Professional Regulation. If this is necessary the process may take additional time to resolve. Any reported problem will be evaluated to determine steps required to resolve.

FEMC staff primarily responding to licensees on continuing education issues is **Brian Lynch, Manager of Applications and Licensure** and **Nancy Wilkins, Licensure Analyst**.

Complaint Process

Do you have a complaint regarding a particular engineer? Do you suspect a PE has committed negligence in engineering or not complied with the Board's Rules governing the practice of engineering? If so, please contact the Florida Board of Professional Engineers (FBPE) or the Florida Engineers Management Corporation (FEMC) at (850) 521-0500.

When you call the FBPE or FEMC, you will be requested to speak with one of our investigators. This is where the investigative process begins. The investigator will take down the specifics of your complaint as well as any and all information that you can provide. You will be provided with a Uniform Complaint Form which must be filled out and mailed back to the FBPE or FEMC along with any supporting documentation you may have. The information contained on this form will be analyzed, and, if determined to be legally sufficient to begin an investigation, will be assigned a case number. Generally speaking, a complaint is legally sufficient to justify the initiation of an investigation if it meets two tests. First, it must allege a violation of statutes or rules over which the FBPE has jurisdiction to act, and, second, it must set out sufficient specific verifiable facts underlying the allegations so as to allow FEMC, which acts on behalf of the FBPE, to determine that a violation of those statutes or rules may have occurred and that an investigation is warranted- supposition or surmise is not sufficient. If it is determined the complaint is not legally sufficient, it will be dismissed at this point. If legal sufficiency is found, the complaint will be fully investigated.

At that time, in nearly all cases the subject of the investigation will be notified while, the investigator will contact and interview witnesses, and gather documentation. If the complaint stems from a technical issue involving the practice of engineering, such as a complaint that a PE practiced negligently, an independent PE consultant, with expertise in the field of engineering at issue, will likely be forwarded the file for review and a professional opinion will be received. The investigator will then summarize the results of the investigation in an Investigative Report that will be reviewed by the FBPE's prosecuting attorney. Then the Investigative Report with the prosecutor's recommendation will

be forwarded to the Probable Cause Panel of the FBPE.

The Probable Cause Panel consists of three members. At least two of these members must be sitting FBPE Board members and, at least two must be PEs. One of the members may be a former FBPE member and one may be a non-PE (consumer). Presently, the Panel is made up of three PE members, one of whom is a past Board member. The Panel will review the Investigative Report and supporting documentation, as well as the recommendation of the Board's prosecutor, and will determine whether there is "probable cause" to believe a violation of the Engineering Practice Act has occurred.

A finding of "no probable cause" means that the case will be dismissed. Cases can and will be dismissed for a variety of reasons. For example, the facts gathered during the investigation may be such that a finding of negligence cannot be sustained at all or cannot be proven by clear and convincing evidence-the evidentiary standard which the FBPE must meet to discipline a PE's license. Sometimes, crucial witnesses are unable to be located or documentation necessary for the successful prosecution of the case may have been destroyed. Other times, the independent PE consultant retained by FEMC may opine that the subject PE's conduct, while not perfect, met adequate engineering standards. Occasionally, even if a violation exists it is of such a minimal nature that a letter of guidance, which is not considered discipline, adequately resolves the matter. In these cases the prosecutor may recommend that the Panel dismiss a case entirely or dismiss a case with the issuance of a letter of guidance. The Panel may also make this decision independently. In all events, however, it is the Panel that ultimately determines to close a case or to charge a PE.

If the Panel finds probable cause to believe a violation has occurred, a formal Administrative Complaint will be filed against the subject of the investigation. This complaint will contain an adequate statement setting out the relevant facts discovered during the investigation as well as the rules and statutes the engineer is charged with violating. At this point, the subject of the complaint must determine how to proceed.

Chapter 120, Florida Statutes, and Chapter 28-5, Florida Administrative Code, outline the procedures to be followed once a formal complaint has been filed. There are two types of hearings available to the person charged - those involving disputed issues of fact and those not involving disputed issues of fact. If the facts contained in the Administrative Complaint are not disputed, the subject will appear before the FBPE at which time the Board will determine an appropriate disciplinary penalty. An "Informal Hearing" is a proceeding before the Board in which the facts in the Administrative Complaint which decide guilt or innocence are not in dispute and the parties simply argue the law, i. e., whether those facts constitute a violation, and what penalty, if any, should be imposed. Most importantly, in an "Informal Hearing" neither the PE nor the prosecutor get to present new facts or to dispute the agreed upon facts upon which the Board will reach its decision.

If the PE charged disputes the facts contained in the Administrative Complaint, the PE may elect a formal hearing before the Division of Administrative Hearings (DOAH). DOAH will appoint an Administrative Law Judge to preside over a hearing that is held at a location chosen by the subject or, more likely, via a videoconference in Tallahassee and at the PE's place of choice. The Board's prosecutor and the subject will each present witness testimony and evidence with the Administrative Law Judge (ALJ) sitting as a fact finder. At the close of the hearing, the ALJ will prepare a

Recommended Order which contains the judge's Findings of Fact, Conclusions of Law, and Penalty Recommendation, if that is applicable. The Recommended Order is a recommendation only; the Board has final action authority. However, in almost all cases the law strictly limits the FBPE's authority to amend or reject the ALJ's factual findings, legal conclusions, and recommendation. This recommendation will be presented to the Board at a regularly scheduled meeting for consideration at which time the Board will determine what, if any, discipline should be taken. The Board has adopted Disciplinary Guidelines in its Rules (Rule 61G15-19.004) which act as a fairly complete roadmap setting out the breadth of the Board's choices when imposing sanctions upon a PE's license.

Lastly, the PE may determine to enter into a Settlement Stipulation with the FEMC prosecutor to try to resolve the case. With each Administrative Complaint sent out such a Stipulation will be included in the packet. This Stipulation, in almost all cases, will reflect the penalty recommendation recommended by the Probable Cause Panel when it authorized the Complaint. The Panel makes such a recommendation to the FEMC prosecutor, which is not binding, but offers the Panel's assessment of what an adequate penalty would be if the charges are proven. The Board, when it ultimately acts, considers the Panel's recommendations but is not bound by them. Of course, the Stipulation sent out with the Administrative Complaint may be further modified as a result of negotiations with the FEMC prosecutor. If the PE and the prosecutor ultimately enter into a Stipulation, the agreement is presented to the Board which has the final say. The Board may accept the Stipulation, reject it completely, or offer a Counter Stipulation reflecting its terms for resolving the case. In any event, the PE, if a Stipulation is rejected, still retains the right to proceed to one of the two types of administrative hearings discussed above.

After such a hearing, the Board will enter a Final Order. Any PE who is disciplined by the Board after a hearing is entitled to judicial review and may file an appeal in the District Court of Appeal either in Tallahassee, where the Board maintains its headquarters, or where the PE resides. This appeal must be filed within thirty (30) days after the rendition of the order being appealed.

This has been just a brief summary of the disciplinary process. The quest for professionalism begins with and depends upon professionals exercising their responsibility to file a complaint if they have knowledge or reason to believe that any person or firm is guilty of violating any of the provisions of Chapter 471, Florida Statutes, or the rules of professional conduct.

Disciplinary Enforcement Activity

Miguel E. Gomez, P.E.

PE 52641

Licensee was charged with one (1) count of misconduct in the practice of engineering, Section 471.033(l)(g), F.S., and Rule 61G15-19.001(6)(b), F.A.C. The Board approved a settlement stipulation imposing a \$1000.00 administrative fine; costs of \$200.00; reprimand, completion of a Board-approved course in Engineering Professionalism and Ethics; study guide; and appearance. Final order was issued on 03/09/2010.

Chris S. Miller, P.E.

PE 62603

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. and Rule 61G15-19.001(4), F. A. C. The Board approved a settlement stipulation imposing a \$1000.00 administrative fine and costs of \$4401.00; reprimand; two (2) years probation with project plan reviews at 6 and 18 months; completion of a Board-approved course in Engineering Professionalism and Ethics; study guide and appearance. Final order was issued on 03/09/2010.

Fernando Gomez-Pina, P.E.

PE 14710

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. The Board approved a settlement stipulation imposing a \$1000.00 administrative fine and costs of \$3940.00; reprimand; two (2) years probation with project plan reviews at 6 and 18 months; completion of a Board-approved course in Engineering Professionalism and Ethics; study guide and appearance. Final order was issued on 03/09/2010.

Paul A. Beatty, P.E.

PE 47449

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. A final order was issued on 03/23/2010 imposing a reprimand; restriction from structural engineering until successful completion of the NCEES Structural I examination; an administrative fine of \$1,000.00 and costs of \$1,470.00; two (2) years probation with project plan reviews at 6 and 18 months; completion of a Board-approved course in Engineering Professionalism and Ethics; and study guide.

Kamal Yazji, P.E.

PE 51542

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. A final order was issued on 03/23/2010 imposing a reprimand; an administrative fine of \$1,000.00 and costs of \$2,678.05; two (2) years probation with project plan reviews at 6 and 18 months; completion of a Board-approved course in Engineering Professionalism and Ethics; and study guide.

John Holt, P.E.

PE 15252 (Case No. 2007047569)

Licensee was charged with one (1) count of violating and failing to comply with terms of a Final Order, Section 471.033(l)(k), F.S., and Rule 61G15-19.001(6)(o), F.A.C , and engaging in negligence in the practice of engineering, Section 471.033(l)(g), F.S. The Board approved a settlement stipulation imposing a \$2,500.00 administrative fine; costs of \$2,890.00; reprimand; probation for two (2) years; completion of a Board-approved intermediate course in Engineering Professionalism and Ethics and appearance. Final order was issued on 05/19/2010.

John Holt, P.E.

PE 15252 (Case No. 2007038131)

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. The Board approved a settlement stipulation imposing a \$2,500.00 administrative fine and costs of \$501.00; reprimand; two (2) years probation (concurrent with case no. 2007047569) and appearance. Final order was issued on 05/19/2010.

Julio Banks, P.E.

PE 46544

Licensee was charged with one (1) count of negligence in the practice of engineering, 471.033(l)(g), F.S., and one (1) count of violating and failing to comply with the terms of a Final Order, Section 471.033(1)(k), F.S. A corrected final order was issued on 05/19/2010 imposing a reprimand; an administrative fine of \$1,000.00; costs of \$1150.00; suspension of license for one year; with appearance before the Board prior to reinstatement. Conditions of reinstatement based on appearance may include two (2) years probation with terms.

Gordon Buck, P.E.

PE 37549

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. A final order was issued on 05/19/2010 imposing a reprimand; an administrative fine of \$5,000.00 and costs of \$1,912.00; and suspension of license until appearance before the Board for reinstatement. Conditions of reinstatement based on appearance may include two (2) years probation with terms.

Nestor Cifuentes, P.E.

PE 29450

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g), F.S. A final order was issued on 04/23/2010 imposing costs of \$2,862.00 and revocation of license.

Ali Abolhassani, P.E.

PE 64212

Licensee was charged with one (1) count of misconduct in the practice of engineering, Section 471.033(1)(a), F.S., Section 471.023(1), F.S. and Rule 61G15.23.002(2). A final order was issued on 05/19/2010 imposed an administrative fine of \$6,000.00 and suspension of license until appearance before the Board. Conditions of reinstatement based on appearance may include two (2) years probation with terms.

Joseph Rickett, P.E.

PE 64906

Licensee was charged with three (3) counts of negligence in the practice of engineering, Section 471.033(1)(g) F.S. The Board approved a settlement stipulation imposing costs of \$11,902.00; probation for two (2) years, stayed until practice resumes in State of Florida. When practice resumes, required to complete NCEES Structural 1 Exam; appearance followed by two (2) years probation; completion of Engineering Professionalism and Ethics course; project review at six (6) and eighteen (18) months and study guide. Final order was issued on 05/27/2010.

Laurie Burcaw, P.E.

PE 46064

Licensee was charged with one (1) count of negligence in the practice of engineering, Section 471.033(1)(g) F.S. A final order was issued on 03/23/2010 imposing costs of \$912.34 and suspension of license until appearance before the Board. Conditions of reinstatement based on appearance may include additional penalties.

For more information about disciplinary enforcement activity, please visit our website: www.fbpe.org.

FBPE Board Members:

John C. Burke, P.E., Chairman (Electrical) 01/09/2004-10/31/2010

H. Dann Wallis, P.E., Vice Chair (Industrial) 10/14/2008-10/31/2011

Christian S. Bauer, Ph.D., P.E., (Industrial) 04/20/2005-10/31/2012

David O. Charland, P.E., S.I. (Structural) 04/20/2005-10/31/2012

R. Scott Batterson, P.E. (Civil) 3/15/2010-10/13/2013

Zafar Hyder, Ph.D, P.E. (Civil) 06/22/2007-10/31/2010

Jonathan F. Earle, Ph.D., P.E. (Educational) 02/12/2008-10/31/2013

Bijay Panigrahi, Ph.D., P.E. (Civil) 10/14/2008-10/31/2011

Warren G. Hahn, P.E. (Mechanical) 3/15/2010-10/31/2013

Nola Garcia (Public) 02/12/2008-10/31/2010

Mary M. Young (Public) 10/14/2008-10/31/2011

Counsel to the Board: Michael Flury, Esquire, Assistant Attorney General

Florida Engineers Management Corporation
Board of Directors

Gary Kuhl, P.E. Chair 11/1/2003 - 10/31/2010

Ernest Cox, III, P.E. Vice Chair 2/25/2008 - 2/25/2012

Melvin W. Anderson, Ph.D. P.E. 11/1/2002 - 10/31/2010

Robert J. Lombardo, P.E. 12/5/2006 - 10/31/2010

Robert H. Hosay, Esquire 3/27/2006 - 12/31/2013

Bert Combs, Esquire 3/3/2006 - 12/31/2013

Roger Jeffery, P.E. 6/15/2005 - 10/31/2012

Officers of Florida Engineers Management Corporation
&
Staff to the Board of Professional Engineers

Administration:

Carrie A. Flynn, President of FEMC, FBPE Executive Director

Zana Raybon, FBPE Assistant Executive Director

Rebecca Sammons, Executive Assistant to FEMC President & FBPE Executive Director

Legal Staff:

John Rimes, Vice President of FEMC, Prosecuting Attorney, FBPE

Sandee Maige, Legal Assistant

Shannon McCoy, Legal Assistant

Jerry Ongley, Senior Investigator

Wendy Gregory, Investigator

Applications and Licensure:

Zana Raybon, FBPE Assistant Executive Director

Claudia Berry, Scanning Technician

Brian Lynch, Manager, Special Inspector Applications, Status Changes

Lisa Simmons, Licensure Analyst, Fundamentals

Michelle Hov, Licensure Analyst, Principles & Practice Applications

Joy Bell, Licensure Analyst, Endorsement (Comity) Applications

Rebecca Valentine, Licensure Analyst, Endorsement Applications with NCEES Records, Certificate of Authorization Applications

Alan Levin, Licensure Analyst, Printing of License Cards, Wall Certificates and Duplicate License Requests

Nancy Wilkins, Licensure Analyst, Continuing Education Provider Applications

Terri Jones, Assistant Licensure Analyst, Changes of Address and Incoming Correspondence

Accounting & Reception:

Deborah Head, Secretary/Treasurer of FEMC, FBPE Comptroller

Amanda Day-Janecek, Assistant to FBPE Comptroller

Angie Henricks, Customer Service Representative

Louise Robinson, Customer Service Representative

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Charlie Crist, Governor



Charlie Liem, Interim Secretary
Department of Business and Professional Regulation