

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No: 2013009998 &
2014023033

ALBERTO CARDONA, P.E.,

Respondent,

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on February 11, 2016 in Orlando, Florida, for the purpose of considering a Settlement Stipulation (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 Stipulation 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 stipulation.

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

DONE AND ORDERED this 12th day of February, 2016.

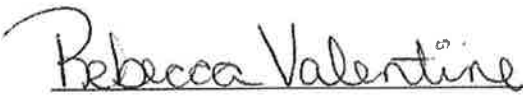
FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For WILLIAM C. BRACKEN, P.E., S.I., CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing filed *Final Order Adopting Settlement Stipulation* has been furnished by U.S. First Class Mail to Mr. Alberto Cardona, P.E., at 2055 Parkview Drive, Apartment 2414, Hallandale Beach, FL 33009 (his address of record with the Department of Business and Professional Regulation) and via service upon his attorneys, Ms. Amie Patty, Esquire, 13577 Feather Sound Drive, Suite 500, Clearwater, FL 33762 this 12th day of February, 2016.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No: 2013009988,
2014023033

ALBERTO CARDONA, P.E.,

Respondent,
_____ /

SETTLEMENT STIPULATION

ALBERTO CARDONA, P.E. ("Respondent") and the Florida Engineers Management Corporation ("FEMC") hereby stipulate and agree to the following joint Settlement Stipulation ("Stipulation") and Final Order of the Florida Board of Professional Engineers ("Board") incorporating this Stipulation in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed professional engineer in the State of Florida, having been issued license number PE 17138.
2. Respondent was charged by Administrative Complaints in FEMC Case No: 2013009988 and 2014023033 filed by FEMC, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. Copies of the Administrative Complaints are attached hereto and incorporated by reference as "Exhibits A & B to Settlement Stipulation".

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed engineer, admits that in such capacity he is subject to provisions of Chapters 455 and 471, Florida Statutes, and the jurisdiction of the Florida Department of Business and Professional Regulations (“the Agency”), FEMC, and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, constitute violations of Chapters 455 and 471, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION OF LAW

1. Respondent shall, in the future, comply with Chapters 471 and 455, Florida Statutes, and the Rules promulgated pursuant thereto.

2. Should Respondent fail to comply with the terms of the Final Order in this case, an administrative complaint for failure to comply with said Final Order can automatically be opened against Respondent.

3. Respondent shall **APPEAR** before the Board when this Stipulation is presented. Respondent must be prepared to discuss: how this situation occurred and what improvements and quality control measures Respondent plans to implement to prevent this circumstance from occurring in the future.

4. Respondent’s license shall be **SUSPENDED** for **Ninety (90) Days** from the date the Final Order adopting this Stipulation has been filed with the Agency Clerk.

5. Respondent shall pay an **ADMINISTRATIVE FINE** of **\$6,000.00** to the Board within either **one (1) year or (2) years** of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The decision as to the time allowed for payment will be made at the Board’s discretion when this Settlement Stipulation is presented to the Board. The **FINE** will

be paid in equal quarterly installments commencing Ninety (90) Days after the Final Order adopting this Stipulation is filed with the Agency Clerk.

6. Respondent shall pay **ADMINISTRATIVE COSTS** of \$7,346.58 (\$5,110.50 (FEMC Case #2013009988) & \$2,246.08 (FEMC Case # 2014023033) to the Board within either **one (1) year or (2) years** of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The decision as to the time allowed for payment will be made at the Board's discretion when this Settlement Stipulation is presented to the Board. The **COSTS** will be paid in equal quarterly installments commencing Ninety (90) Days after the Final Order adopting this Stipulation is filed with the Agency Clerk.

7. Respondent's license to practice engineering shall be **REPRIMANDED**.

8. Respondent's license shall be **RESTRICTED** to the practice of **ELECTRICAL ENGINEERING**. The term "**ELECTRICAL ENGINEERING**" encompasses all activity covered by the provisions of Rule 61G15-33, Fla. Admin. Code, and shall include all engineering documents prepared or issued relating to such **ELECTRICAL ENGINEERING** work including designs, plans, specifications, drawings, prints, reports, or similar instruments of service, as defined in Rule 61G15-30.002(4), Fla. Admin. Code.

9. Respondent shall be placed on **PROBATION** for two (2) years from the date the Respondent's **SUSPENSION** is concluded, with the following terms:

a. Respondent shall successfully complete a Board-approved course in **ADVANCED ENGINEERING PROFESSIONALISM AND ETHICS** within one (1) year of the date Respondent's probation begins. Prior to that date, Respondent shall submit to the Board a Certificate of Completion of the course. It is the Respondent's

responsibility to notify the Board that he has completed the course in a timely manner.

Respondent must complete the following correspondence course offered by:

Murdough Center for Engineering Professionalism
Texas Tech University
PO Box 41023
Lubbock, Texas 79409
Engineering Ethics Advanced
Telephone 806-742-3525
Fax 806-742-0444
E-mail: engineering.ethics@ttu.edu

b. Respondent shall submit to the Board a detailed list of all completed projects (signed, sealed, and dated), by the Respondent for **PROJECT REVIEW** at nine (9) and twenty-one (21) month intervals from the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects shall include: all projects and reports signed and sealed by Respondent.

c. A FEMC Consultant will select two (2) projects from each submitted list for review. The Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultant. The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, rubber stamp seal. Sealed project review materials may be copied and submitted electronically, if desired by the Respondent. Respondent is also responsible for the Consultant's fees for reviewing the projects, and shall remit payment in the amount of \$1,500.00 by check or money order made payable in the name of the Board's Consultant at the time that the project lists are submitted to FEMC. In the event that the project review cost exceeds \$1,500.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$1,500.00, then the unused portion will be refunded to Respondent. Should the

Consultant return an unfavorable report concerning Respondent's projects, that report shall be submitted to the Probable Cause Panel for determination of whether additional disciplinary proceedings should be initiated.

d. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 9.b., above, the initial or, if applicable, the subsequent submission required by the terms of probation shall be extended for a period of six (6) months to allow Respondent to perform the services necessary for the required review. However, if, after the extension has expired, Respondent does not perform sufficient engineering services to meet the requirements of the terms of probation, Respondent's license will be placed on voluntary inactive status as defined in Section 455.227, Florida Statutes, by the Board, without any further necessity for action on the part of Respondent. Respondent's license shall remain on such status, provided Respondent meets the requirements of Section 455.227, Florida Statutes, unless and until Respondent notifies the Board that Respondent wishes to recommence practice and obtains Board authorization to reactivate Respondent's license under such terms of probation that the Board deems appropriate at that time.

e. Should the FEMC Consultant return a favorable report after reviewing the plans submitted during the first year of probation, the requirements for the second year of probation may be waived and the probation may be terminated. A "favorable report" is herein defined as a report that, in the sole opinion of the Consultant with the concurrence of the Board, finds that the plans reviewed were considered to be free of any material deficiencies.

f. Should the Respondent fail to timely comply with the terms of the Final Order with regard to the Project Reviews discussed herein, this case will be submitted to the Probable Cause Panel for review and determination of whether additional disciplinary action should be taken.

10. Respondent shall successfully complete the STUDY GUIDE which has been prepared by the Board and which will be furnished to Respondent, regarding the Engineering Practice Act, Chapter 471, Florida Statutes, and the Rules of the Board. Respondent is required to provide a personal email address that will be used to access the on-line study guide. The study guide must be completed within thirty (30) days of the date on which a Final Order incorporating this Settlement Stipulation is filed with the Agency Clerk.

11. Respondent acknowledges that neither Respondent's attendance at the Board Meeting when this Stipulation is presented, nor any continuing education or college level courses taken as a requirement of the terms of this Stipulation may be used to comply with the continuing education requirements of Chapter 61G15-22, Fla. Admin. Code.

12. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force or effect until the Board issues a Final Order adopting this Stipulation.

13. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action with respect to this case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of this Stipulation. Furthermore, should this Stipulation not be accepted by the Board, it is agreed that presentation to and by the Board shall not unfairly or

illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

14. Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or otherwise challenge or contest the validity of the joint Stipulated Facts, Conclusions of Law, imposition of discipline, and the Final Order of the Board incorporating this Stipulation.

15. Respondent waives the right to seek any attorney's fees or costs from the Board in connection with this disciplinary proceeding.

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



ALBERTO CARDONA, P.E.,
Respondent
Case Nos: 2013009988 and 2014023033

Dated: September 30, 2015

APPROVED this 2nd day of October, 2015.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers Management
Corporation

DEC 02 2014

Clerk: Justina Lukin

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	12/2/2014
File #	

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2013009988

ALBERTO CARDONA, P.E.,

Respondent,

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Engineers Management Corporation on behalf of Petitioner, Florida Board of Professional Engineers, and files this Administrative Complaint against ALBERTO CARDONA, P.E. ("Respondent"). This Administrative Complaint is issued pursuant to Sections 120.60 and 471.038, Florida Statutes. Any proceeding concerning this complaint shall be conducted pursuant to Section 120.57, Florida Statutes. In support of this complaint, Petitioner alleges the following:

1. Petitioner, Florida Board of Professional Engineers ("Petitioner", "Board", or "FBPE"), is charged with regulating the practice of engineering pursuant to Chapter 455, Florida Statutes. This complaint is filed by the Florida Engineers Management Corporation ("FEMC") on behalf of Petitioner. FEMC is charged with providing administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers pursuant to Section 471.038, Florida Statutes (1997).

2. Respondent is, and has been at all times material hereto, a licensed professional engineer in the State of Florida, having been issued license number PE 17138. Respondent's last known addresses are: 6246 SW 191 Avenue, Pembroke Pines, Florida 33332 and 2500 Parkview Drive, Apartment 2414, Hallandale Beach, Florida 33009

3. In 2010 Respondent was retained to investigate water intrusion and reported wind damage to the windows and sliding glass doors at the Sunrise Lakes Condominiums Phase IV located in Sunrise, Florida. The first inspections were made in April 2010 and a report was issued without any date. Additional inspections were performed in September 2010 and a report was issued on September 28, 2010. Some re-inspections were performed in November 2010. Beginning in January 2011 inspections of almost all of the other units within Sunrise Lakes Condominiums Phase IV by Respondent's staff members began. Based upon these inspections, Respondent issued a third amended report (Final Report) dated May 5, 2011.

4. The Final Report was materially deficient as follows:

A. The calculations contained within the Final Report are based upon the current provisions of American Society of Civil Engineers (ASCE) 7 for an enclosed building, category II, exposure C and an importance factor 1.0. This is the incorrect reference to be used for these calculations. The Sunrise Lakes Condominiums Phase IV complex was constructed approximately 30 years ago. As a result, to be valid Respondent's analysis must have been based upon the building code in effect at the time the buildings were permitted and constructed – not the current standards. Using the wind loads obtained from the Standard Building Code in effect at the time of construction would result in materially more accurate assumptions as to the actual strength of

construction of the windows at the Sunrise Lakes Condominiums Phase IV complex than those obtained by Respondent.

B. Respondent's calculations contained within the Final Report assume that a $\frac{1}{4}$ " shim is part of the single shear connection. However, the shim is not present in all locations and thus cannot be considered as a universal constant in the calculations in the Final Report. Additionally, the shim is free to move horizontally, cannot resist any load, and thus cannot be part of the shear connection or calculation.

C. Respondent's calculations contained within the Final Report assumed that the window frame is $\frac{1}{8}$ " in thickness. Since the thickness of the window frame makes a substantial difference in the final calculation results the use of an assumption is improper. The actual window frame thickness is easy to measure and should have been measured and used in the calculations.

D. Respondent's calculations contained within the Final Report assumed that the screws are all 1" in length. However, the available evidence indicates the screw lengths varied from 1" to $1\frac{1}{2}$ " in length. Therefore the calculations presented only apply for one particular case and not all of the windows at the complex although the Final Report does not limit its scope.

E. Respondent's calculations contained within the Final Report ignored the allowable stress increase permitted by the load duration factor C_D . The National Design Standard for Wood Construction allows the greater load capacity for short term loads such as the wind loads upon which the calculations were based. Neglecting this allowable factor renders the calculations incorrect.

F. Respondent opined in the Conclusion section of the Final Report that all of the sliding glass doors and windows in the Sunrise Lakes Condominiums Phase IV complex needed to be removed and replaced. This conclusion was based solely upon Respondent's observations and interpretations of the Florida Building Code. Other than the foregoing, Respondent's conclusion did not reference any generally accepted engineering standards upon which the conclusion was based. Moreover, Respondent's opinion was based upon the errors and omissions set out in paragraphs A through E, above, and thus is not properly supported by adherence to applicable engineering standards.

G. Respondent opined in the Report that every sliding glass door and window in the entire Sunrise Lakes Condominiums Phase IV complex needed to be removed and replaced. Since the methodology and calculations upon which this conclusion in the Report was based contained errors and were not based upon generally accepted engineering standards, the opinion and conclusion were not properly supported by valid engineering analysis.

5. Section 471.033(1)(g), Florida Statutes, provides that an engineer is subject to discipline for engaging in negligence in the practice of engineering. Rule 61G15-19.001(4), Florida Administrative Code, provides that negligence constitutes "failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles."

6. On May 14, 2013 Respondent signed, sealed, and dated an engineering report entitled "Destructive Testing at Sunrise Lakes" ("Testing Report"). By issuing the Testing Report, Respondent was Engineer of Record for the Testing Report as that term is defined in

Rule 61G15-30.002(1), Fla. Admin. Code: the Engineer of Record is “[a] Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for any engineering service or creative work.”

7. On January 20, 2014 in a civil proceeding, Sunrise Lakes Condominium Association Phase IV, Inc., v American Strategic Insurance Corp., Case No. 095539221, 17th Judicial Circuit, Broward County, Respondent’s deposition was taken. In the Deposition (Pages 140-175) Respondent was asked about Respondent’s engineering basis for the conclusions contained in the Testing Report and the calculations upon which the conclusions were based. Respondent stated (Deposition Page 141-142) that “...I cannot tell you whether [the calculations upon which the conclusions in the Testing Report were based] are correct or incorrect because I don’t know how to do all of these calculations.” Moreover, Respondent could not interpret the results indicated in the Testing Report and stated (Deposition Page 165): “No. Like you know, my experience in structural engineering is not my first field, okay. So I don’t have the ability to do that.” Respondent’s background is in electrical engineering (Deposition Page 142-143).

8. During Respondent’s January 20, 2014 deposition Respondent stated (Deposition Pages 140-175) that Respondent was present at all times during the removal of three windows at Sunrise Lakes and that Respondent photo-documented these activities in the Testing Report.

9. On February 26, 2014 a re-inspection of the three windows referenced in Paragraph 8 was done. All parties present during the February 26, 2014 inspection concurred that only one window had been removed. At that time Respondent, contrary to the testimony in the January 20, 2014 deposition, admitted that, in fact, Respondent had not witnessed the removal of the second and third windows and that the removal work was never done.

10. Section 471.033(1)(j) , Florida Statutes, provides that an engineer is subject to discipline for "...[a]ffixing or permitting to be affixed his or her seal, name, or digital signature to any final drawings, specifications, plans, reports, or documents that were not prepared ... under his or her responsible supervision, direction, or control." In order to meet this standard an engineer must be in responsible charge of all engineering documents issued and sealed by the engineer. Rule 61G15-18.011(1), Fla. Admin. Code, provides that

(1) "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), Fla. Admin. Code"

(a) The degree of control necessary for the Engineer of Record shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of electronic communication devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, or via facsimile transmission.

2. Judges the validity and applicability of recommendations prior to their incorporation into the work, including the qualifications of those making the recommendations.

11. Section 471.033(1)(g), Florida Statutes, provides that an engineer is subject to discipline for engaging in misconduct in the practice of engineering. Rule 61G15-19.001(6) (b) and (d), Fla. Admin. Code, provide that:

(6) A professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall include, but not be limited to:

* * *

(b) Being untruthful, deceptive, or misleading in any professional report, statement, or testimony whether or not under oath or omitting relevant and pertinent information from such report, statement or testimony when the result of such omission would or reasonably could lead to a fallacious conclusion on the part of the client, employer or the general public;

* * *

(d) Affixing a signature or seal to any engineering plan of document in a subject matter over which a professional engineer lacks competence because of inadequate training or experience.”

COUNT I

12. Petitioner realleges and incorporates Paragraphs One (1) through Five (5) as if fully set forth in this Count One.

13. The Final Report contains deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Five (5). As set forth therein, the Final Report was materially deficient due to Respondent’s use of the wrong building code, due to the errors contained within Respondent’s calculations and due to Respondent’s failing to follow accepted engineering standards. As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(j), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by sealing and signing engineering documents that were issued when such documents were materially deficient in that Respondent: (1) did not exercise due care in the preparation of the final engineering documents for the Final Report, and (2) the Final Report was not issued in compliance with acceptable engineering principles.

COUNT II

14. Petitioner realleges and incorporates Paragraphs One (1) through Eleven (11) as if fully set forth in this Count Two.

15. For the reasons set forth in Paragraphs One (1) through Eleven (11), the Testing Report was not prepared under Respondent’s responsible supervision, direction, or control in violation of Section 471.033(1)(j), Florida Statutes.

COUNT III

16. Petitioner realleges and incorporates Paragraphs One (1) through Eleven (11) as if fully set forth in this Count Three.

17. For the reasons set forth in Paragraphs through Eleven (11), Respondent violated Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(6)(d), Fla. Admin. Code, by committing misconduct in the practice of engineering by issuing, sealing and signing the Testing Report when Respondent lacked competence to issue the Testing Report due to inadequate training or experience.

COUNT IV

18. Petitioner realleges and incorporates Paragraphs One (1) through Eleven (11) as if fully set forth in this Count Four.

19. For the reasons set forth in Paragraphs (1) through Nine (9) and Eleven (11) Respondent violated Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(6)(b), Fla. Admin. Code, by committing misconduct in the practice of engineering by being untruthful in testimony given in Respondent's deposition taken January 20, 2014 in a civil proceeding, Sunrise Lakes Condominium Association Phase IV, Inc., v American Strategic Insurance Corp., Case No. 095539221, 17th Judicial Circuit, Broward County, in which Respondent stated falsely that Respondent was present when three windows at the Sunrise Lakes Condominiums had been removed for testing when, in fact, only one window had been removed. Since the inspection and testing of a representative sample of the installed windows was material to Respondent's conclusions in the Testing Report, Respondent's fallacious testimony materially and erroneously justified the conclusions in the Testing Report.

WHEREFORE, the Petitioner respectfully requests the Board of Professional Engineers to enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case, other than costs associated with an attorney's time, as provided for in Section 455.227(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 1ST day of December, 2014.

Zana Raybon
Executive Director

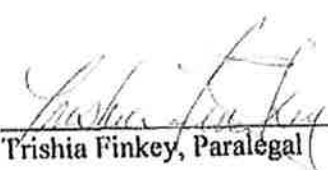

BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III, Prosecuting Attorney
Florida Engineers Management Corporation
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303
Florida Bar No. 212008
PCP: November 18, 2014
PCP Members: RODDENBERRY, MATTHEWS & PEPPER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a filed copy of the Administrative Complaint was furnished to Alberto G. Cardona, at 2500 Parkview Drive, Apartment 2414, Hallandale Beach, Florida 33009 and at 6546 SW 191 Avenue, Pembroke Pines, Florida 33332 by U.S. certified mail, on the 29 of December, 2014.


Trishia Finkey, Paralegal

FILED
Florida Engineers Management
Corporation

MAR 20 2015

Clerk: _____

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	3/20/2015
File #	

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No: 2014023033

ALBERTO CARDONA, P.E.,

Respondent,

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Engineers Management Corporation on behalf of Petitioner, Florida Board of Professional Engineers, and files this Administrative Complaint against ALBERTO CARDONA, P.E.. This Administrative Complaint is issued pursuant to Sections 120.60 and 471.038, Florida Statutes. Any proceeding concerning this complaint shall be conducted pursuant to Section 120.57, Florida Statutes. In support of this complaint, Petitioner alleges the following:

1. The Florida Board of Professional Engineers ("Petitioner," "Board," or "FBPE") is charged with regulating the practice of engineering pursuant to Chapter 455, Florida Statutes. This Administrative Complaint ("Complaint") is filed by the Florida Engineers Management Corporation ("FEMC") on behalf of Petitioner. FEMC is charged with providing administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers pursuant to Section 471.038, Florida Statutes (1997).

2. ALBERTO CARDONA, P.E., (“Respondent”) is, and has been at all times material hereto, a licensed professional engineer in the State of Florida, having been issued license number PE 17138. Respondent’s last known address and address of record is 2500 Parkview Drive, Apartment 2414, Hallandale Beach, FL 33009.

3. On March 26, 2012 Metro/Dade Department of Permitting, Environment and Regulatory Affairs (MDDPERA) sent the “Notice of Required Recertification of 40 Year Old Building(s)” (“Notice”) to GRS Management (“property manager for the complex”) for the buildings at The Beach Club at Fontainebleau Park (“Beach Club”).

4. As a result of the Notice, an engineering company was retained to perform the required inspections and subsequently issued preliminary reports, which found numerous deficiencies at The Beach Club. Thereafter the maintenance staff at the complex was directed to make repairs to the noted deficiencies.

5. After the repairs had been completed, Respondent was retained to perform the required inspections prior to the 40 Year Recertification of The Beach Club. Respondent was given copies of the above-referenced engineering company’s preliminary reports, which had been used to document where the repairs were needed. Respondent performed both the structural and electrical inspections for all of the buildings. The dates of the inspections are listed below:

Building	Inspection Date
A	07-14-2013
B	07-14-2013
C	07-28-2013
D	10-28-2013
E	10-28-2013
F	10-22-2013

G	10-28-2013
H	10-24-2013
I	10-28-2013
J	11-08-2013
K	11-08-2013
L	11-14-2013

6. After the original inspections were completed, Respondent sealed, signed, dated, and issued 40 year Re-certification Reports for all 12 buildings at The Beach Club between July 23, 2013 and November 22, 2013. The signed and sealed reports were sent to MDDPERA. The Re-certification Reports each included the following statement “This is to certify that the mentioned building was inspected by our company and it was found to be structurally and electrically safe for the occupancy for which it has been authorized by the County of Miami-Dade.” The Re-certification Reports also stated: “This is to certify that, to the best of my knowledge, belief and professional experience, the repairs done in all these buildings comply with the requirements of the Florida Building Code.”

7. The submitted Re-certification Reports were accepted by MDDPERA and a “Letter of Recertification” was issued for each building.

8. Subsequent to the issuance of the Letters of Recertification, MDDPERA was notified that alleged material deficiencies still existed at The Beach Club. MDDPERA then made its own inspections and confirmed that the material deficiencies did, in fact, exist. MDDPERA subsequently revoked the 40 year re-certifications that had been issued based upon Respondent’s Re-certification Reports.

9. The deficiencies found by MDDPERA at The Beach Club that Respondent failed to set out in the Re-certification Reports filed with MDDPERA subsequent to Respondent’s initial inspections referenced in Paragraph Five (5) included:

- Failure to illuminate parking lots, alleys and access thereto
- Failure to maintain building or structure or devices in safe condition
- Electrical installations on the roof that need replacement for corroded and broken conduits and disconnects
- Air conditioning compressors that are not secured and unit supports that are corroded
- Walls and roofs that are leaning
- Floors need repairs (tripping hazard)
- Metal door frames are corroded

10. After MDDPERA revoked the 40 year re-certifications of The Beach Club, Respondent re-inspected the property on the following dates and confirmed the deficiencies found by MDDPERA:

Building	Re-inspection Date
A	12-23-2013
B	12-23-2013
C	12-24-2013
D	12-24-2013
E	12-26-2013
F	12-26-2013
G	12-27-2013
H	12-27-2013
I	12-28-2013
J	12-28-2013
K	01-03-2014
L	01-03-2014

11. Respondent subsequently revised all of the Re-certification Reports which were based upon Respondent's initial inspections which took place between July 14, 2013 and November 14, 2013 to confirm all of the deficiencies found by MDDPERA.

12. Rule 61G15-19.001(4), Fla. Admin. Code, states in part:

“A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in Section 471.033 (1) (g), F.S., is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principals.”

13. Respondent’s initial Re-certification Reports contain deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Eleven (11). As a result, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by sealing and signing engineering documents that were issued when such documents were materially deficient in that Respondent: (1) did not exercise due care in the preparation of the final engineering documents for the initial Re-certification Reports, and (2) the initial Re-certification Reports were not issued in compliance with acceptable engineering principles.

14. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by being negligent in the practice of engineering.

WHEREFORE, the Petitioner respectfully requests the Board of Professional Engineers to enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent’s license; restriction of the Respondent’s practice; imposition of an administrative fine; issuance of a reprimand; placement of the Respondent on probation; the assessment of costs related to the investigation and prosecution of this case, other than costs associated with an attorney’s time, as provided for in Section 455.227(3), Florida Statutes; and/or any other relief that the Board deems appropriate.

SIGNED this 21st day of March, 2015.

Zana Raybon
Executive Director



BY: John J. Rimes, III
Prosecuting Attorney

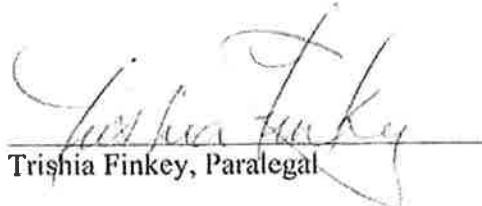
COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303
Florida Bar No. 212008

PCP DATE: March 1, 2015
PCP Members: Fiorillo, Matthews & Pepper

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing filed *Administrative Complaint* was furnished to Alberto Cardona, P.E., at his last known address and address of record with the Department of Business and Professional Regulation of: 2500 Parkview Drive, Apartment 2414, Hallandale Beach, FL 33009, by U.S. Certified Mail, on the 23rd of March, 2015.



Trishia Finkey, Paralegal