

FILED
Florida Engineers
Management Corporation
3/1/2016 Clerk: Rebecca Valentine

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date **3/1/2016**
File # **2016-01606**

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

vs.

FEMC Case No.: 2015034920

DAVID BOWEN III,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF PROFESSIONAL ENGINEERS (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on February 11, 2016, in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by John J. Rimes, Chief Prosecuting Attorney. Respondent was not present and was not represented by counsel.

FINDINGS OF FACT

1. Respondent was properly served with a copy of the Administrative Complaint and did not file a response within 21 days of service.
2. The investigative file provided and accepted into evidence establishes the facts alleged in the Administrative Complaint.
3. The Board adopts as its finding of facts the allegations of fact in the Administrative Complaint.

CONCLUSIONS OF LAW

1. Failure to timely respond to a properly served Administrative Complaint constitutes a waiver of the right to elect a hearing involving disputed issues of material fact pursuant to Section 120.57(1), Florida Statutes.

2. The admitted facts constitute the violations set forth in the Administrative Complaint, which are adopted and incorporated by reference as the conclusions of law in this case.

3. The Board is empowered by Sections 455.228, 471.031(1)(a) and 471.038(5), Florida Statutes, to impose a penalty against the Respondent. THEREFORE, IT IS

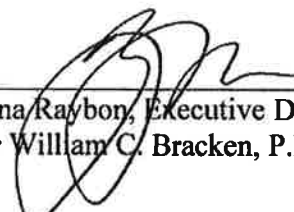
ORDERED that Respondent is assessed a fine of \$1,000.00 to be paid to the Board within 30 days of the date of this Final Order. It is further

ORDERED that Respondent is assessed costs in the amount of \$168.75 to be paid to the Board within 30 days of date of this Final Order.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 29th day of February, 2016.

BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
for William C. Bracken, P.E., S.I., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY

FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to DAVID BOWEN III, 9349 Old A1A, St. Augustine, Florida 32086; by interoffice mail to John J. Rimes, Chief Prosecuting Attorney, FEMC, 2639 N. Monroe Street B-112, Tallahassee FL 32303 and Florida Board of Professional Engineers, 2639 N. Monroe Street B-112, Tallahassee FL 32303 ; and by electronic mail to Lawrence Harris, Assistant Attorney General, Lawrence.Harris@myfloridalegal.com, this 1st day of March, 2016.

Rebecca Valentino

FILED
Florida Engineers Management
Corporation

NOV 18 2015

Clerk: 

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	11/18/2015
File #	

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2015034920

DAVID BOWEN III,

Respondent,

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Engineers Management Corporation on behalf of Petitioner, Florida Board of Professional Engineers, and files this Administrative Complaint ("Complaint") against DAVID BOWEN III. This 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," "FBPE," or "Board"), 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. DAVID BOWEN, III's ("Respondent") last known address is 9349 Old A1A, St. Augustine, Florida 32086.

3. Respondent is not and never has been licensed as a professional engineer in Florida.

4. On July 16, 2015 a permit package was submitted to the St. Johns County Building Services Division for construction of an enclosed storage room addition located at 9411 Old A1A in St. Johns County ("St. Johns Project"). The attached documents contained 8 pages of engineering design documents which were sealed using the seal of David Bowen, Jr., PE# 50123 and were dated on either April 21 or April 24, 2015. David Bowen Jr.'s professional engineer license has been permanently retired under the provisions of Section 471.005(10), Florida Statutes, since 2009.

5. As required by Section 471.025(1), Florida Statutes, the design plans for the St. Johns Project also included the signature of the person who purportedly sealed the documents. The signature found on the eight (8) pages of the engineering design documents for the St. Johns Project was that of Respondent David Bowen, III, not that of David Bowen Jr., the retired professional engineer. Respondent is the son of David Bowen Jr.

6. Section 471.031(1)(a) & (b), Florida Statutes, provides that: "(1) A person may not: (a) Practice engineering unless the person is licensed or exempt from licensure under this chapter;... (b) use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter..." By placing Respondent's signature over the professional engineer's seal of David Bowen, Jr, and by issuing the engineering documents for the St. Johns Project when Respondent is not now and never has been

a professional engineer, Respondent violated the provisions of Section 471.031(1)(a) & (b), Florida Statutes.

7. Section 471.033(1)(a), Florida Statutes, provides in material part: (1)The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) [v]iolating any provision of ...s. 471.031.”

8. Section 455.228(1), Florida Statutes, provides in material part:

(1) When the [Department of Business and Professional Regulation] has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, ... the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120”

9. Section 471.038(5), Florida Statutes, provides in material part: “[n]otwithstanding ss. 455.228 and 455.2281, the duties and authority of the department to receive complaints and to investigate and deter the unlicensed practice of engineering are delegated to the [Board of Professional Engineers].” As a result, the Board is authorized to impose the administrative penalty described in Paragraph 8.

10. The practice of engineering is defined in Section 471.005(7), Florida Statutes, to include in material part:

“any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, ... of engineering works and systems, ... any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, ..., insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; ... who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which

is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of [Chapter 471].

11. Based upon the foregoing, Respondent's actions in issuing the engineering documents for the St Johns Project and in signing the documents while purporting to be a professional engineer are in violation of Sections 455.228(1), 471.031(1)(a), and 471.038(5), Florida Statutes.

WHEREFORE, the Petitioner respectfully requests the Board of Professional Engineers to enter an order imposing one or more of the following penalties: imposition of an administrative fine; 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 17th day of November, 2015.

Zana Raybon
Executive Director



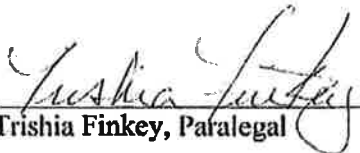
BY: John J. Rimes, III
Prosecuting Attorney

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: November 17, 2015
PCP Members: Fiorillo, Matthews & Pepper

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing filed Administrative Complaint was furnished to David Bowen, III at his last known address is 9349 Old A1A, St. Augustine, Florida 32086 by U.S. Certified and U.S. First Class Mail, on the 1ST of December, 2015.


Trishia Finkey, Paralegal