

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/15/2016
File #	2016-01172

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No: 2014031178

MARK A De Stefano, P.E.,

Respondent,

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**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.

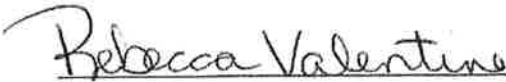
DONE AND ORDERED this 12<sup>th</sup> day of February, 2016.

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. Mark De Stefano, P.E., at 1800 Second Street, Suite 712, Sarasota FL 34236 (his address of record with the Department of Business and Professional Regulation) this 12<sup>th</sup> day of February, 2016.

  
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Rebecca Valentine,  
Paralegal

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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ENGINEERS,

Petitioner,

v.

FEMC Case No. 2014031178

MARK A. DE STEFANO, P.E.,

Respondent,

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**SETTLEMENT STIPULATION**

MARK A. DE STEFANO, P.E. ("Respondent") and the Florida Board of Professional Engineers ("Board") by and through the Florida Engineers Management Corporation ("FEMC") hereby stipulate and agree to the following joint Settlement Stipulation ("Stipulation") and Final Order of the 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 61657.
2. Respondent was charged by an Administrative Complaint filed by FEMC, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. A copy of the Administrative Complaint is attached hereto and incorporated by reference as "Exhibit A 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 Regulation (“the Agency”), FEMC, and the Board.

2. Respondent admits that the facts set forth in the Complaint, if proven, constitute violations of Chapters 455 and 471, Florida Statutes, as alleged in the 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’s license shall be **SUSPENDED**, the suspension shall be **STAYED** for thirty (30) days and then **VACATED** if Respondent pays an **ADMINISTRATIVE FINE** of \$1,000.00 and **ADMINISTRATIVE COSTS** of \$891.80 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. Timely payment of the **FINE** and **COSTS** will result in the **SUSPENSION** never taking effect.

4. Respondent’s license to practice engineering shall be **REPRIMANDED**.

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

6. Respondent acknowledges that neither his 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, Florida Administrative Code.

7. Respondent shall successfully complete a Board-approved course in **BASIC ENGINEERING PROFESSIONALISM AND ETHICS** within one (1) year of the date the Final Order adopting this Stipulation is filed with the Agency Clerk. 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 may contact the Florida Engineering Society ("FES"), 125 South Gadsden St., Tallahassee, FL 32301, (850)224-7121, for information regarding the availability of such courses in Florida; however, if the FES provides any information regarding such a course to the Respondent, the Respondent must submit that course information to the FEMC for review and determination as to whether or not it will comply with the Board's requirements. Respondent may also elect to complete one of the following correspondence courses offered by:

Murdough Center for Engineering Professionalism  
Texas Tech University, PO Box 41023, Lubbock, Texas 79409  
**Engineering Ethics Basic**  
**Engineering Ethics Intermediate**  
**Engineering Ethics Advanced**  
Telephone 806-742-3525; Fax 806-742-0444; E-mail: [engineering.ethics@ttu.edu](mailto:engineering.ethics@ttu.edu)

EPD Program  
Auburn University  
Engineering Extension Service,  
217 Ramsay Hall, Auburn, Alabama 36849-5331  
Ethics and Professionalism  
Phone 800-446-0382 or 334-844-4370

An Accredited College or University course if that course information is first submitted to the FEMC for review and determination as to whether or not it will comply with the Board's requirements.

*Courses offered by Continuing Education Programs or Professional Business Programs (Exp: SunCam, Inc., C2Ed), are not Board Certified, and will not meet the requirements.*

8. 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 the Final Order incorporating this Stipulation is filed with the Agency Clerk.

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

10. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. 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.

11. 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.

12. 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.



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Mark A. de Stefano, P.E.,  
Respondent  
PE 61657  
Case No: 2014031178

Dated: 8/17/2015

APPROVED this 20<sup>th</sup> day of August, 2015.

Zana Raybon, Executive Director  
Florida Board of Professional Engineers



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BY: John J. Rimes, III  
Chief Prosecuting Attorney

**FILED**  
Florida Engineers Management  
Corporation

**JUL 23 2015**

Clerk: 

**STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	7/23/2015
File #	

**FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,**

Petitioner,

v.

FEMC Case No. 2014031178

**MARK A. DE STEFANO, 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 ("Complaint") against MARK A. DE STEFANO, P.E. 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. 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. MARK A. DE STEFANO, 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 61657. Respondent's address of record is 5731 Rosin Way, Sarasota, FL 32233.

3. On June 6, 2007, based upon an inspection performed by Respondent or by persons acting under Respondent's responsible supervision, Respondent issued a signed and sealed Florida Building Code Commercial Mitigation Verification Affidavit ("Mitigation Verification Affidavit") for the Bay Pointe Vista Condominium located in Osprey, Florida.

4. On Page 2 of the Mitigation Verification Affidavit Respondent checked "Level A" ("Hip Shape, Level A Wood Deck Attachment") for the roof deck construction type. However, the correct designation is "Level C" ("Flat shape, Reinforced Concrete Attachment") insofar as the roof was not constructed of wood but rather of concrete as would have been readily apparent during the inspection of the site.

5. As a result of the above error, the Bay Pointe Vista Condominium received fewer insurance credits that it should have received and thus the Bay Pointe Vista 2 Condominium Association paid materially more in insurance premiums for the Bay Pointe Vista Condominium's wind insurance than would have been charged to the Association had Respondent issued the correct Mitigation Verification Affidavit.

6. 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), Fla. Admin. 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.”

7. Respondent’s Mitigation Verification Affidavit is an engineering “certification” as that term is defined in Rule 61G15-18.011(4), Fla. Admin. Code, in that the Report is “a statement signed and/or sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer’s knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice,...”).

8. Respondent’s Mitigation Verification Affidavit contains deficiencies including; but not limited to, those set forth in Paragraphs Four (4) and Five (5). 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, signing and dating engineering documents that were issued and filed for public record when such documents were materially deficient in respect to and not in compliance with applicable engineering requirements or acceptable engineering principles.

9. 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 engaging in negligence 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 24<sup>th</sup> day of July, 2015

Zana Raybon  
Executive Director



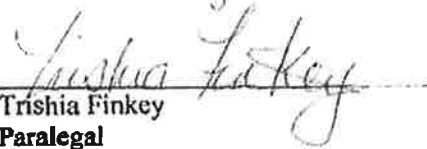
BY: John J. Rimes, III  
Prosecuting Attorney

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: July 14, 2015  
PCP Members: Fiorillo, Matthews & Todd

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a correct copy of the foregoing filed *Administrative Complaint* was furnished to Mr. MARK A. DE STEFANO, P.E., at his Address of Record with the Department of Business and Professional Regulation: 5731 Rosin Way, Sarasota, FL, by U.S. Certified and First Class Mail, on the 27<sup>th</sup> of July, 2015.



Trishia Finkey  
Paralegal