

APR 13 2015

Clerk: 

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	<b>4/13/2015</b>
File #	<b>2015-03291</b>

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

v.

Case No: 2014026742

JOSEPH C. KOSINSKI, 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 April 9, 2015 in Daytona Beach Shores, 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 13<sup>th</sup> day of April, 2015.

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. Joseph Kosinski, P.E., 135 Gulfview Drive, Ft. Myers, FL 33931, and by interoffice mail to Michael T. Flury, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, and John J. Rimes, III, Attorney, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303, this 14<sup>th</sup> day of April, 2015.

  
\_\_\_\_\_  
Trishia Finkey,  
Paralegal

RECEIVED

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS FEB 20 2015

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

FLORIDA BOARD OF  
PROFESSIONAL ENGINEERS

Petitioner,

v.

FBPE Case No: 2014026742

JOSEPH C. KOSINSKI, P.E.,

Respondent,

\_\_\_\_\_ /

**SETTLEMENT STIPULATION**

JOSEPH C. KOSINSKI, 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 52288.
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 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’s license shall be **SUSPENDED**, the suspension shall be **STAYED** for thirty (30) days and then **VACATED** if Respondent pays an **ADMINISTRATIVE FINE** of \$2,000.00 and **ADMINISTRATIVE COSTS** of \$4,361.25 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 be placed on **PROBATION** for two (2) years from the date the Final Order adopting this Stipulation is filed with the Agency Clerk, 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 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 needs to 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](mailto:engineering.ethics@ttu.edu)

b. Respondent shall submit to the Board a detailed list of all completed projects which must include engineering work in electrical, mechanical, civil, and structural engineering, which have been signed, sealed, and dated, by the Respondent for **PROJECT REVIEW** at six (6) and eighteen (18) month intervals from the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects on the

submitted list do not have to have all four (4) disciplines in the same project; however, the list must include all the projects Respondent has signed, sealed, and dated that involve any of the four (4) engineering disciplines listed herein.

c. **A FEMC Consultant** will select two (2) projects from each of the four (4) disciplines in the 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 \$4,000.00 by checks or money orders made payable to separate FEMC Consultants, depending on the engineering discipline, at the time the project lists are submitted to FEMC. The Consultants to whom the checks or money orders are to be made payable and the amount of funds made payable to which Consultant will be communicated to Respondent a month prior to the project list submission date. In the event that the project review cost exceeds \$4,000.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$4,000.00, 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 Respondent has not performed engineering services in all four (4) disciplines on a sufficient number of projects to make the submissions required by 7.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 he wishes to recommence practice and obtains Board authorization to reactivate his 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 set of plans reviewed 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 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.

g. 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.

8. 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.


9. 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.

10. 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.



11. 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.

  
JOSEPH C. KOSINSKI, P.E.,  
Respondent  
Case No. 2014026742

Dated: FEB 18 2015

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

Zana Raybon, Executive Director  
Florida Board of Professional Engineers

  
BY: John J. Rimes, III  
Chief Prosecuting Attorney

RECEIVED

FEB 20 2015

FLORIDA BOARD OF  
PROFESSIONAL ENGINEERS

**JAN 27 2015**

Clerk: Lishia Taylor

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

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>1/27/2015</b>
File #	

**FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,**

Petitioner,

v.

**FEMC Case No. 2014026742**

**JOSEPH C. KOSINSKI, 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 JOSEPH C. KOSINSKI, 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. Petitioner, Florida Board of Professional Engineers ("Board," "FBPE," or "Petitioner"), 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. JOSEPH C. KOSINSKI, 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 52288. Respondent's last known address is 135 Gulfview Drive, Ft. Myers Beach, Florida 33931.

3. On February 4, 2014 Respondent signed and sealed four sheets of drawings on the title block of Ashmore & Associates, LLC and J.C. Kosinski Engineering, Inc., for an addition to an existing facility at 26501 Tamiami Trail, Bonita Springs, FL. ("Bonita Springs Project"). The four sheets included three Structural Sheets and one sheet of Electrical and Plumbing ("EP") for the building addition.

4. Respondent acted as Engineer of Record for the Bonita Springs Project as that term is defined in Rule 61G15-30.002(1), Fla. Admin. Code.

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), 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." Rule 61G15-19.001(4), Fla. Admin. Code, also provides that "[f]ailure to comply with the procedures set forth in the Responsibility Rules as adopted by the Board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer."

6. The 2010 Florida Building Code – Building ("FBC-B") Section 107.2.1 "Information on construction documents" states:

“[c]onstruction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations...”

FBC-B Section 2701.1 “Scope” states:

[t]his chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the NFPA 70, National Electrical Code.

7. Rule 61G15-33.001, Fla. Admin. Code, “Responsibility Rules of Professional Engineers Concerning the Design of Electrical Systems” “General Responsibility” states:

Electrical Engineering documents shall be prepared in accordance with applicable technology and with the requirements of the authority having jurisdiction. The documents shall identify the Engineer of record for the electrical systems project. Electrical Engineering documents shall demonstrate compliance with the requirements of the applicable codes and standards . . . .

8. Rule 61G15-33.003(2), Fla. Admin. Code, Design of Power Systems, requires that Electrical Engineering Documents applicable to the design of electrical power systems shall, at a minimum, indicate the following: (a) Power Distribution Riser Diagram with short circuit values. (e) Main and distribution equipment, control devices, locations and sizes. (f) Voltage drop calculations for the feeders and customer-owned service conductors . . . (j) Grounding and bonding. Rule 61G15-33.004(2), Fla. Admin. Code, Design of Lighting Systems, requires that Electrical Engineering Documents applicable to the design of lighting systems shall, at a minimum, indicate the following: (e) Calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

9. FBC-B Section 2901.1 “Scope,” states: “[p]lumbing systems and equipment shall be constructed, installed and maintained in accordance with the Florida Building Code, Plumbing.” Rule 61G15-34.007(2), Fla. Admin. Code, “Design of Plumbing Systems,” requires that

Mechanical Engineering Documents applicable to Plumbing Systems shall, when applicable, include but are not limited to the following: (a) Equipment schedules for all plumbing fixtures, water heaters, boilers, pumps, grease traps, septic tanks, storage tanks, expansion tanks, compression tanks and roof and floor drains. (i) List of ASHRAE, ASME, ASPE, ANSI and other applicable codes, design standards and requirements.

10. The Electrical Engineering Document ("Sheet EP") for the Bonita Springs Project signed and sealed by Respondent is materially deficient as follows:

(a) The drawing contains no Power Distribution Riser Diagram, no short circuit values, and no voltage drop calculations for the feeders and customer-owned service conductors. These omissions constitute violations of Rule 61G15-33.003(2)(a and f), Fla. Admin. Code.

(b) The drawing contains no Main and distribution equipment, . . . , locations and sizes. These omissions constitute violations of Rule 61G15-33.003(2)(e), Fla. Admin. Code.

(c) No grounding or bonding requirements are shown on the drawing. This omission constitutes a violation of Rule 61G15-33.003(2)(j), Fla. Admin. Code.

(d) There are no lighting fixture performance specifications on the drawing. This constitutes a violation of Rule 61G15-33.004(2)(a), Fla. Admin. Code.

(e) The lighting design drawing contains no calculated values to demonstrate compliance with the Florida Energy Code for Building Construction. These omissions constitute a violation of Rule 61G15-33.004(2)(e) Fla. Admin. Code.

11. The Mechanical Engineering Document applicable to Plumbing Systems ("Sheet EP") for the Bonita Springs Project signed and sealed by Respondent is materially deficient as follows:

(a) Equipment schedules not included on drawing EP. The omission of equipment schedules from the Plumbing Documents constitutes a violation of Rule 61G15-34.007(2)(a), Fla. Admin. Code.

(b) No list of applicable plumbing codes is shown on the drawing. The omission of applicable codes, design standards and requirements constitutes a violation of Rule 61G15-34.007(2)(i), Fla. Admin. Code.

### COUNT I

12. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8) and Ten (10) as if set forth fully in this Count One.

13. Respondent's Plans for the Bonita Springs Project contain deficiencies including; but not limited to, those set forth in Paragraphs 3-11. 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 and filed for public record 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 Bonita Springs Project and (2) the final engineering documents for the Bonita Springs Project 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, by engaging in negligence in the practice of engineering.

### COUNT II

15. Petitioner realleges and incorporates Paragraphs One (1) through Six (6), Nine (9) and Eleven (11) as if fully set forth in this Count Two.

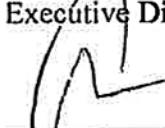
16. Respondent's Mechanical ("Plumbing") Engineering Plans for the Bonita Springs Project contain deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Six (6), Nine (9) and Eleven (11) as if fully set forth in this Count Two. Respondent violated the provisions of 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 and filed for public record 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 Bonita Springs Project, and (2) the final engineering documents for the Bonita Springs Project were not issued in compliance with acceptable engineering principles.

17. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, 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 21<sup>st</sup> day of January, 2015.

Zana Raybon  
Executive Director

  
BY: John J. Rimes, III  
Prosecuting Attorney

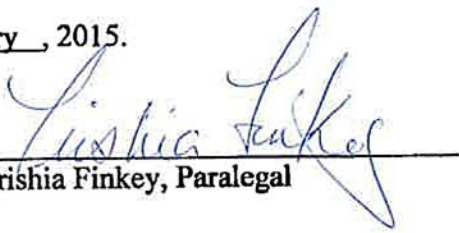


COUNSEL FOR FEMC:

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: January 13, 2015  
PCP Members: RODDENBERRY, MATTHEWS & PEPPER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing filed *Administrative Complaint* was furnished to Joseph C. Kosinski, P.E., at his address of record with the Department of Business and Professional Regulation, Licensee database: 135 Gulfview Drive, Fort Myers, FL 33931 by U.S. Certified Mail, on this 27<sup>th</sup> of January, 2015.

  
Trishia Finkey, Paralegal