

NOV 04 2014

Clerk: \_\_\_\_\_

**STATE OF FLORIDA  
BOARD OF PROFESSIONAL ENGINEERS**

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	11/4/2014
File #	2014-08489

FLORIDA BOARD OF  
PROFESSIONAL ENGINEERS,

Petitioner,

v.

CASE NO.: 2012003988  
LICENSE NO.: PE 48685

FAUSTIN F. DENIS, JR., P.E.,

Respondent.

\_\_\_\_\_ /

**FINAL ORDER**

THIS CAUSE came before the Florida Board of Professional Engineers (hereinafter "the Board") pursuant to Sections 120.569 and 120.57(2), Florida Statutes, at a duly noticed public meeting on October 9, 2014, in Tampa, 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, III, Prosecuting Attorney. Respondent was not present.

**FINDINGS OF FACT.**

1. The Administrative Complaint was properly served.
2. Respondent failed to timely or otherwise respond to the Administrative Complaint.
3. The investigative file provided establishes the facts alleged in the Administrative Complaint.
4. The facts set forth in the Administrative Complaint are hereby adopted and incorporated by reference as the facts of this case.

**CONCLUSIONS OF LAW**

5. Failure to timely respond to a properly served Administrative Complaint is deemed an admission of the alleged facts and a waiver of the right to request a hearing pursuant to Section 120.57(1), Florida Statutes.

6. 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 and for which the Board may impose discipline.

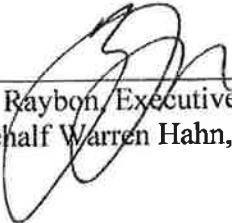
THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent's license shall be REPRIMANDED.
2. Respondent shall pay to the Board an administrative fine of \$1,000.00, and costs in the amount of \$380.25 within six (6) months of this Final Order.
3. Respondent's license shall be placed on probation for two (2) years.
4. Respondent shall take a board approved course in Professionalism and Ethics, and complete the Board's Study Guide prior to termination of probation.

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

DONE AND ORDERED this 4<sup>th</sup> day of November, 2014.

**FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS**

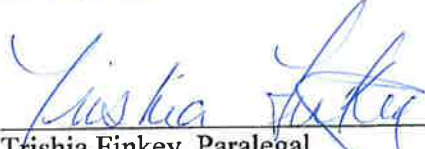
  
\_\_\_\_\_  
Zana Raybon, Executive Director  
on behalf Warren Hahn, P.E. Chair

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 FLORIDA 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. First Class Mail to **Mr. Faustin F. Denis, P.E.**, 20030 East Oakmont Drive, Hialeah, Florida, 33015; and by interoffice mail to Michael T. Flury Assistant Attorney General, PL-01 The Capitol, Tallahassee FL 32399-1050 and John Rimes, Chief Prosecuting Attorney, 2639 N. Monroe Street B-112, Tallahassee FL 32303, this 5<sup>th</sup> day of November, 2014.

  
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Trishia Finkey, Paralegal  
Final Order Compliance Coordinator

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	5/23/2014
File #	

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2012003988

FAUSTIN DENIS, JR., P.E.,

Respondent,

**FILED**  
Florida Engineers Management  
Corporation

**MAY 23 2014**

**ADMINISTRATIVE COMPLAINT**

Clerk: 

COMES NOW the Florida Engineers Management Corporation ("FEMC") on behalf of Petitioner, Florida Board of Professional Engineers ("Petitioner" or "Board"), and files this Administrative Complaint against FAUSTIN DENIS, JR., 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 is charged with regulating the practice of engineering pursuant to Chapter 455, Florida Statutes. This complaint is filed by the FEMC on behalf of Petitioner. FEMC is charged with providing administrative, investigative, and prosecutorial services to the Board 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 48685. Respondent's last known address is 20030 East Oakmont Drive, Hialeah, Florida 33015.

Exhibit A

3. On November 26, 2013, Respondent entered into a plea agreement in Case No. F08-19352B by which Respondent pleaded Guilty to four (4) counts of violating Section 125.69, Florida Statutes and Section 2-11.1(e)(3)(a), Miami-Dade County Code of Ordinances, Conflict of Interest and Code of Ethics Ordinance ("Ethics Ordinance"), in the Circuit Court for the Eleventh Judicial Circuit in and for Dade County, Florida. As provided in Section 125.69, Florida Statutes, violations of the Ethics Ordinance are prosecuted and treated as misdemeanors. After Respondent entered the above Guilty Plea, the Court withheld adjudication on the above crimes.

4. The relevant portions of the Ethics Ordinance provide that Respondent, as an individual who, through a firm, contracted with the City of Opa-Locka in Miami-Dade County, violated the Ethics Ordinance due to the fact that Respondent "offer[ed], [gave] or agree[d] to give to [employee(s) of the City of Opa-Locka], ... gift[s as defined in the Ethics Ordinance] for (a) an official public action taken, or to be taken, or which could be taken ...." The "gifts" in question were made for the purpose of obtaining preferment in contracts with the City of Opa-Locka and were tendered to Emmanuel Nwadike, P. E., the City Engineer for the City of Opa-Locka, and the subject of FBPE Final Order in FEMC Case # 2012004836.

4. As a result of the above Guilty Plea, Respondent was sentenced by the Court to six (6) months of reporting probation on each of the four counts of the Ethics Ordinance violations to run consecutively (for a total of two (2) year reporting probation). In addition, Respondent was required to serve thirty (30) days in the Miami-Dade County Jail. Among the terms of the probation, restitution was ordered.

5. Section 471.033(1)(d), Florida Statutes, provides that disciplinary action may be taken against a Professional Engineer for "[b]eing convicted or found guilty of, or

entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering.” Likewise, Section 455.227(1)(c), Florida Statutes, provides that disciplinary action can be taken against a Professional Engineer for “[b]eing convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.”

6. Insofar as the criminal activities which formed the basis for Respondent’s November 26, 2013 Guilty Plea derived directly from Respondent’s involvement as a Professional Engineer with a general contracting company which performed design-build services in Miami-Dade County, Respondent’s criminal adjudication was for a crime that directly related to Respondent’s practice as a Professional Engineer and directly related to Respondent’s ability to practice as a Professional Engineer.

7. Section 471.013(1)(a), Florida Statutes, provides in material part: “A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character ... ” Insofar as being of good moral character is a specific prerequisite to being initially licensed as a Professional Engineer, the maintenance of such good moral character directly relates to the practice of engineering or to the ability to practice engineering.


8. By entering a Guilty Plea to violating the Ethics Ordinance, Respondent admitted to violating a crime of moral turpitude and thus has not maintained the good moral character required of a Professional Engineer. As a result, Respondent’s conviction directly relates to the Respondent’s practice of engineering and to Respondent’s ability to practice engineering.

9. Based on the foregoing, Respondent is charged with violating Sections 455.227(1)(c) and 471.033(1)(d), Florida Statutes, by being adjudicated guilty of a crime which directly relates to the practice of engineering or the ability to practice 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 23<sup>rd</sup> day of May, 2014.

Zana Raybon  
Executive Director

  
BY: John J. Rimes, III  
Prosecuting Attorney for the  
Florida Board of Professional Engineers

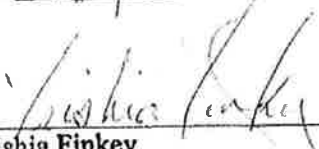
**COUNSEL FOR FEMC:**

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

JJR/tf  
PCP: May 13, 2014  
PCP Members: RODDENBERRY, MATTHEWS & PEPPER

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Administrative Complaint was furnished to FAUSTIN DENIS, JR., P.E., at 20030 East Oakmont Drive, Hialeah, Florida 33015 by United States Certified Mail, on the 21<sup>st</sup> of Nov, 2014.

  
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Trishia Finkey  
NALA Certified Paralegal with FEMC  
Final Order Compliance Coordinator for the Board