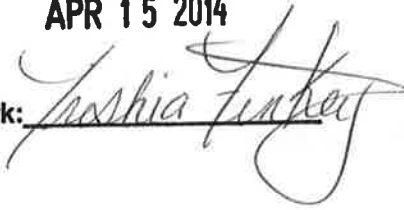


FILED
Florida Engineers Management
Corporation

APR 15 2014

Clerk:



FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/15/2014
File #	2014-02625

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

v.

FEMC Case No. 2013000391

JAMES ZALESKI, P.E.

Respondent,

_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

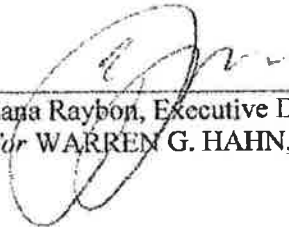
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 10, 2014 in Tampa, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between 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.

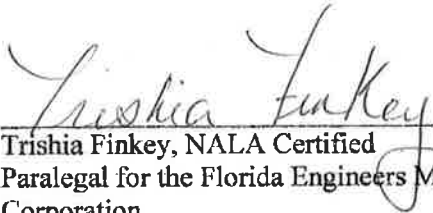
DONE AND ORDERED this 11th day of April, 2014.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS


Zana Raybon, Executive Director
For WARREN G. HAHN, P.E., CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Final Order Adopting Settlement Stipulation* has been furnished by U.S. First Class Mail to James A. Zaleski, P.E., C/O Mr. John C. Kenny, Attorney, Law Offices of John C. Kenny, 241 East 6th Avenue, Tallahassee, FL 32303, and by interoffice mail to Michael T. Flury, Assistant Attorney General, PL-01 The Capitol, Tallahassee, FL 32399-1050, and John J. Rimes, III, Attorney, 2639 North Monroe Street, Suite B-112, Tallahassee, FL 32303, this 18 day of April, 2014.


Trishia Finkey, NALA Certified
Paralegal for the Florida Engineers Management Corporation

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

v.

FEMC Case No. 2013000391

JAMES ZALESKI, P.E.

Respondent,
_____ /

SETTLEMENT STIPULATION

JAMES ZALESKI, P.E., hereinafter referred to as "Respondent," and the Florida Engineers Management Corporation ("FEMC") hereby stipulate and agree to the following joint stipulation and Final Order of the Florida Board of Professional Engineers incorporating this Stipulation in the above-styled manner.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed engineer in the State of Florida, having been issued license number PE 51544.
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".

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 ("Department"), FEMC, and the Florida Board of Professional Engineers ("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 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 timely comply with the terms of the Final Order, this case will be submitted to the Probable Cause Panel ("PCP") for review and determination of whether additional disciplinary action should be taken.

3. Respondent shall pay an **ADMINISTRATIVE FINE** of \$1,000.00 and **COSTS** of \$159.00 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

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

5. Respondent's Professional Engineer license shall be **SUSPENDED** for a period of One (1) Year. However, the imposition of the **SUSPENSION** is **STAYED** and will not take effect contingent upon the following conditions:

a. Respondent shall not be convicted of any crime (felony or misdemeanor) for a period of FIVE (5) Years.

b. Respondent shall successfully complete the criminal probationary terms to which Respondent is presently subject.

6. If Respondent is convicted of a crime (felony or misdemeanor) within the above-listed timeframe or is found to have violated Respondent's criminal probation then FEMC will impose the **ONE YEAR SUSPENSION** without further Board action and without in any way precluding the Board from opening a new disciplinary proceeding as a result of Respondent's future actions. If the **ONE YEAR SUSPENSION** is imposed, then at the end of the period of Suspension Respondent must petition for reinstatement of his professional engineering license and must **APPEAR** at the Board Meeting at which the Petition shall be considered. Unconditional reinstatement is not guaranteed and the Board may impose such conditions of probation as it deems appropriate prior to reinstating the license.

7. Respondent shall **APPEAR** before the Board when the stipulation is presented. Respondent should 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.

8. 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 ("F.A.C.").

9. Upon entry of the Final Order adopting this Stipulation, Respondent shall be placed on **PROBATION** for two (2) years 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. Prior to that date, Respondent shall submit to the Board a Certificate of Completion. 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, 125 South Gadsden Street, Tallahassee, Florida 32301, (850) 224-7121, for information regarding the availability of such courses in Florida. 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
Professional Engineering Ethics – Advanced
Telephone 806-742-3525; Fax 806-742-0444
E-mail ethics@coe.ttu.edu

Accredited College or University courses. – If you choose to go this route, that is fine, however, the course you select (the title and phone contact) must be submitted to the Final Order Compliance Coordinator for the Board at tfinkey@fbpe.org prior to your taking the course so that it can be confirmed that the course you are taking is ADVANCED.

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

b. 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 will be required to provide an 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.

10. 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 agreement.

11. 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 the Stipulation. Furthermore, should this Settlement 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.

12. 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 Stipulation of Facts, Conclusions of Law, imposition of discipline, and the Final Order of the Board incorporating said Stipulation.

13. 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.

 signed this 25th day of March 2014

Signature and Date
JAMES ZALESKI, P.E.,
Respondent
Case No. 2013000391

APPROVED this 26th day of March, 2014

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: **Evele Lawson-Proctor**
Date: **9/30/2013**
File #

FILED
Florida Engineers Management Corporation

SEP 30 2013

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

Clerk: *Sandra Waige*

v.

FEMC Case No. 2013000391

JAMES ZALESKI, P.E.,

Respondent,

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Engineers Management Corporation, hereinafter referred to as "FEMC", on behalf of the Florida Board of Professional Engineers, hereinafter referred to as "Petitioner" or "Board," and files this Administrative Complaint against JAMES ZALESKI, P.E., hereinafter referred to as "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:

I. Petitioner, Florida Board of Professional Engineers, is charged with regulating the practice of engineering pursuant to Chapter 455, Florida Statutes. This complaint is filed by the Florida Engineers Management Corporation, hereinafter referred to as "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).

Exhibit "A"

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 51544. Respondent's last known address is 2484 Lantana Lane, Tallahassee, Florida 32311.

3. On December 3, 2012, Respondent entered a plea of guilty to Grand Theft – a violation of Section 812.014, Florida Statutes; Computer Fraud – a violation of Section 815.06, Florida Statutes; Criminal Use of Personal ID Information – a violation of Section 817.568, Florida Statutes; Fraudulent Use of Credit Card – more than two times six months – a violation of Section 817.61, Florida Statutes. Respondent was adjudicated guilty by the Court.

4. As disposition of the criminal charges, the Court placed Respondent on Probation for five (5) years; Respondent was directed to the custody of the Sheriff of Leon County for a term of six (6) months; Respondent received a \$1,071.25 fine; Respondent was required to pay restitution of \$7,671.88.

5. The facts underlying the December 3, 2012 guilty plea involved Respondent having defrauded and stolen from Respondent's employer, M. Inc., a contracting firm. Respondent's duties with M. Inc. involved the practice of engineering as that term is defined in Section 471.005(7), Florida Statutes, insofar as his duties included the "...evaluation, ... of engineering works and systems," for purposes of estimating the cost of construction. Therefore, because Respondent's criminal actions derived from Respondent's engineering employment, Respondent's conviction directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering.

6. 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 becoming 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.

7. 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.”

8. By entering a plea of guilty to Grand Theft (Section 812.014, Florida Statutes); Computer Fraud (Section 815.06, Florida Statutes); Criminal Use of Personal ID Information (Section 817.568, Florida Statutes); Fraudulent Use of Credit Card (Section 817.61, Florida Statutes), Respondent was found guilty of crimes of moral turpitude. As a result, Respondent has not maintained the good moral character required of a Professional Engineer. Therefore, Respondent's conviction directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering.

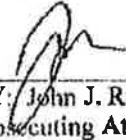
9. Based on the foregoing, Respondent is charged with violating Sections 455.227(1)(c) and 471.033(1)(d), Florida Statutes, by being adjudicated guilty of a crime which directly relates to the practice of engineering or the ability to practice engineering.

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 27th day of September, 2013.

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

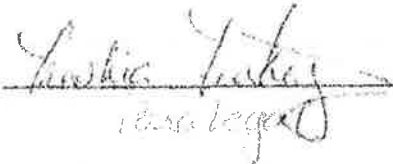
JR/tf

PCP DATE: September 17, 2013

PCP Members: FIORILLO, RODDENBERRY & MATHEWS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to James A. Zaleski, P.E., 2484 Lantana Lane, Tallahassee, Florida 32311, by certified/return-receipt mail, on the 15th of October, 2013.



Zana Raybon
Executive Director