STATE OF FLORIDA
FLORIDA REAL BOARD OF PROFESSIONAL ENGINE

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v.

FEMC CASE NO.: 2014050099
DOHA CASE NO.: 15-6468PL
LICENSE NO.: PE 15252

JOHN D. HOLT, P.E.,

Respondent.

_____/

FINAL ORDER

THIS CAUSE came before the BOARD OF PROFESSIONAL ENGINEERS (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on April 14, 2016, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, which is attached hereto and incorporated herein as Exhibit A. Petitioner was represented by John J. Rimes, Chief Prosecuting Attorney. Respondent was not present in person, nor was Respondent's legal counsel, Barry W. Taylor, Esq.

Upon review of the Recommended Order and after a review of the complete record in this case, the Board makes the following findings and conclusions:

EXCEPTIONS

1. Neither Respondent nor Petitioner filed Exceptions to the Recommended Order's Findings of Fact.

2. Neither Respondent nor Petitioner filed Exceptions to the Recommended Order's Conclusions of Law.

FINDINGS OF FACT

1. There is competent substantial evidence to support the Findings of Fact.

2. The Findings of Fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 471, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

DISPOSITION

Upon a complete review of the record in this case, the Board approves and adopts the penalties set forth in the Recommended Order, and imposes the following discipline:

1. Respondent's license shall be REPRIMANDED.

2. Respondent shall pay a fine of $10,000.00, payable within one (1) year of the date of this Final Order.

3. Respondent's license is suspended for one (1) year from the date of this Final Order.

4. Prior to reinstatement of Respondent's license following the period of suspension, Respondent shall:

a. complete a Board approved advanced course in Engineering Professionalism and Ethics and submit a Certificate of Completion of the course to the Board office; and

b. compete 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.

5. Upon reinstatement, Respondent's license shall be placed on probation, and the Board reserves jurisdiction to determine the period and conditions of probation. At a minimum, conditions of probation will include plans review by a FEMC consultant.

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

DONE AND ORDERED this 2 day of May, 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 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. Mail to **Barry W. Taylor, Esq.,** Taylor and Taylor Law, P.A., Post Office Box 8338, Jupiter, Florida 33468; by interoffice mail to John J. Rimes, FEMC, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303 and Board of Professional Engineers, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida

32303; and by electronic mail to Lawrence D. Harris, Assistant Attorney General, Lawrence.Harris@myfloridalegal.com this 3rd day of May, 2016.

Rebecca Valentin

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

vs. Case No. 15-6468PL

JOHN D. HOLT, P.E.,

Respondent.
_____/

RECOMMENDED ORDER

On January 25, 2016, a duly-noticed hearing was held by video teleconference at locations in West Palm Beach and Tallahassee, Florida, before F. Scott Boyd, an Administrative Law Judge assigned by the Division of Administrative Hearings.

APPEARANCES

For Petitioner: John Jefferson Rimes, Esquire
Florida Engineers Management Corp.
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303-5268

For Respondent: Barry W. Taylor, Esquire
Taylor and Taylor Law, P.A.
Post Office Box 8338
Jupiter, Florida 33468

STATEMENT OF THE ISSUES

Whether Respondent engaged in negligence in the practice of engineering, in violation of section 471.033(1)(g), Florida Statutes (2014), and implementing rules,[1/] as alleged in the

Administrative Complaint, and, if so, what is the appropriate sanction?

PRELIMINARY STATEMENT

On September 15, 2015, the Florida Engineers Management Corporation (FEMC) filed an Administrative Complaint on behalf of the Florida Board of Professional Engineers (Petitioner or Board) against Mr. John D. Holt, P.E. (Respondent or Mr. Holt), alleging that he had engaged in negligence in the practice of engineering. In an "Answer to Administrative Complaint" filed on October 23, 2015, Mr. Holt disputed the allegations and requested a hearing pursuant to section 120.57(1), Florida Statutes. On November 10, 2015, the case was referred to the Division of Administrative Hearings for assignment of an administrative law judge. The case was set for hearing on January 25, 2016.

At hearing, Petitioner presented the live testimony of Mr. Homer A. Ooten, Ph.D., P.E., LEED-AP, who was accepted, without objection, as an expert in electrical and mechanical engineering; and of Mr. Roger L. Jeffery, P.E., LEED-AP, who was accepted, without objection, as an expert in structural engineering. Sixteen exhibits were offered by Petitioner and admitted without objection: Exhibits P-1 through P-12 and Exhibits P-26 through P-29. Exhibits P-3 through P-6 were admitted with the caveat that they were hearsay and could not alone support a finding of fact, but could only be used to

supplement or explain other competent evidence. Exhibits P-26 through P-29 were final orders imposing prior discipline, admitted solely for purposes of penalty should negligence be found, not as evidence of any charges in the Administrative Complaint. Official recognition was given to various provisions of the Florida Statutes, the Florida Building Code, the National Electric Code, and the Florida Administrative Code, which had been marked for identification as Exhibits P-13 through P-25. Respondent testified, but offered no exhibits. Petitioner's request that proposed recommended orders be due 20 days from the filing of the transcript was granted at hearing.

The Transcript was filed on February 5, 2016. Both parties timely filed proposed recommended orders, which have been considered.

FINDINGS OF FACT

1. The Board is the state entity charged with regulating the practice of engineering, pursuant to chapter 455, Florida Statutes. FEMC provides administrative, investigative, and prosecutorial services to the Board pursuant to section 471.038.

2. At all times material to this case, Mr. Holt was licensed as a professional engineer in the state of Florida, with license number PE 15252.

3. The Board has adopted Responsibility Rules of Professional Engineers (Responsibility Rules). These rules are

contained in Florida Administrative Code Chapters 61G15-30 through 61G15-36. Mr. Holt is required to comply with the Responsibility Rules when performing engineering services.

4. On December 3, 2014, FEMC received a complaint filed by Mr. John Farinelli, chief building official for the City of Belle Glade, Florida (City). Mr. Farinelli had reviewed plans for three residential construction projects which had been submitted to the City for general building permits. The engineering plans for each project had been signed, sealed, and dated by Mr. Holt. Mr. Farinelli found what he believed to be numerous errors on the plans, resulting in the complaint against Mr. Holt.

5. After receipt of the complaint, the engineering plans were reviewed by professional engineers retained by FEMC. Mr. Homer A. Ooten, Ph.D., P.E., LEED-AP, reviewed the electrical and mechanical elements of the plans; Mr. Roger L. Jeffery, P.E., LEED-AP, reviewed the structural elements of the plans. Based substantially upon engineering reports prepared by these engineers, an Administrative Complaint against Mr. Holt was filed on or about September 15, 2015.

6. Mr. Holt filed an "Answer to Administrative Complaint" on October 23, 2015. In that pleading, he admitted that:

> Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for all projects delineated in the Specific Allegations, is professionally responsible for the documents prepared. As

> such, Respondent is responsible for producing documents that comply with the applicable portions of the Responsibility Rules.

In response to other portions of the Administrative Complaint setting forth requirements of the Responsibility Rules concerning electrical systems design, he repeatedly stated "any departures are justified by the specific circumstances of the project in question and the sound professional judgment of the Respondent." In response to specific allegations of material deficiencies in the electrical engineering design documents, Mr. Holt responded that any omissions were "negated by Respondent's reference to the NFPA 70 National Electrical Code 2008." Mr. Holt made numerous similar claims that departures were justified based on circumstances and his professional judgment in response to portions of the complaint setting forth the requirements for mechanical systems design, involving both heating, ventilation, and air conditioning (HVAC) and plumbing elements. He also noted that "Respondent merely designed a hole for a future wall unit."

7. Although Mr. Holt thus accepted responsibility for electrical and mechanical elements of the drawings prior to hearing, arguing that any departures were justified in the exercise of his "professional judgment," he later took a different tack. In testimony at hearing, Mr. Holt maintained that he signed and sealed the documents only as a structural engineer and that he did not therefore assume responsibility for

any elements of the drawings constituting electrical or mechanical engineering.

8. On cross-examination, Mr. Holt was evasive when asked who was responsible for the electrical and mechanical elements of the drawings he had sealed:

> Q. Whose work was it, if it wasn't yours?
>
> A. Whose work was it?
>
> Q. Yes.
>
> A. I don't know for sure. A lot of times we include air conditioning companies, electrical contractors. Depends.
>
> Q. Somebody drew the drawings. Did your office draw the drawings?
>
> A. What are you getting at?
>
> Q. I'm just asking a question.
>
> A. What was included or what was drawn?
>
> Q. I just want to know -- somebody drew these documents.
>
> A. Yes. My draftsmen drew them all up, yes.
>
> Q. They were all drawn up in your office?
>
> A. In my office? He has his own offices. Okay.
>
> Q. They were all drawn up by your draftsmen?
>
> A. Yes.
>
> Q. And that included the electrical work, mechanical work, and structural work all by your draftsmen?

> A. The structural input was mine. He drew it, yes.

As was ultimately clear from his testimony, Mr. Holt was well aware that no other engineer was responsible for any part of the engineering drawings for the three residential construction projects.

9. Mr. Holt was in responsible charge for the preparing, signing, dating, sealing, and issuing of all three of the engineering plans, whether he prepared them personally or whether they were prepared by his draftsmen. He was the engineer of record for all three projects. As he admitted, he was fully aware that the engineering drawings were submitted under his seal and filed for public record with the City for building permits. He knew that the drawings under his seal would be, and were, reviewed by City officials, not only as to structural elements, but also for electrical and mechanical elements, as the City was required to do.

10. At hearing, in support of his position that he was not responsible for anything on the drawings other than the structural work, Mr. Holt noted that his name and address had appeared under the words "Structural Design Review by:" on the drawings for two of the projects. He added that he also "should have put that on there" for the third set of drawings. The title "Structural Engineer" also appears underneath Mr. Holt's name and

address on the third set of drawings. Mr. Holt's signature appears in a different area on all three drawings, followed by the letters "P.E." and Mr. Holt's engineering license number.

11. The references to "Structural Design Review" and "Structural Engineer" on the engineering drawings near his name and address were not sufficient to indicate to a City official or other person reading the drawings that, by use of these, words Mr. Holt intended not to accept responsibility for various elements of the drawings.

12. Under the circumstances of this case--in which the engineering drawings were prepared under Mr. Holt's responsible charge, and he knew that they would be filed for public record to obtain building permits--it is disingenuous for Mr. Holt to attempt to disclaim responsibility because of the language "Structural Design Review by:" or "Structural Engineer." His argument that, at worst, he simply failed to clearly indicate the limits of his responsibility, is completely rejected.[2/]

13. As to the structural engineering elements for which Mr. Holt did accept responsibility at hearing, he maintained that any departures from the Responsibility Rules were justified by the specific circumstances of the project in question and his sound professional judgment. Mr. Holt also argued that his general citation to the Florida Building Code (FBC) put the contractor on notice of all of the construction code

requirements. Finally, he argued that certain specifications did not need to be included in the engineering drawings if those specifications were commonly known in the county or area where the construction was to take place.

14. The testimony of Mr. Ooten and Mr. Jeffery at hearing convincingly refuted all of Mr. Holt's contentions. First, departures from the Responsibility Rules, even if they are justified by circumstances and the professional judgment of the engineer--which these were not--must be documented. Second, general references to applicable electrical, mechanical, and building codes do not incorporate the entire content of those codes so as to meet the specific documentation requirements of the Responsibility Rules. Third, while Mr. Holt's testimony that specifications for certain construction materials were well known in his area is credited, his argument that this eliminated the requirement to include them on the engineering drawings was completely unsupported by the Responsibility Rules or the FBC, and is rejected. Findings related to the specific allegations in the Administrative Complaint are discussed below. Mr. Holt testified that he did not dispute the opinions of Mr. Ooten as to the electrical and mechanical deficiencies in any of the plans.

Betancourt Project

15. On or about July 29, 2014, Mr. Holt signed, sealed, and dated revised engineering drawings for a conversion/renovation

project located at 117 Northwest Avenue H Place, Belle Glade, Florida (Betancourt Project). The Betancourt Project drawings included sheets S-1 through S-3.

16. It was clearly and convincingly shown that the electrical engineering design documents for the Betancourt Project are materially deficient as follows:

a. The drawings contain an electrical riser diagram, but no short circuit values and no voltage calculations for the feeders and customer-owned service conductors. If the circuit breakers and the wires are undersized, then the electrical systems can overheat and that affects the safety of the occupants.

b. The panel schedule does not contain the information it should. It has blank spaces that do not indicate whether there are missing circuit breakers. Conductor sizes, insulation types, circuit-interrupting devices, and fault current interrupting capability are omitted.

c. No surge protective devices are shown on the drawings. While Mr. Holt argued at one point that no surge protection was required, Mr. Ooten credibly testified that the Responsibility Rules required it. He also noted that if there had been a justified departure from this requirement, a notation to that effect on the drawings was required, and there was none.

d. The main electrical panel was not located on the plans. The fact that it was shown on the electrical riser diagram is not sufficient.

e. The drawings show no circuitry for outlets, equipment, devices, or smoke detectors. The reference in the panel schedule to "building receptacles" is not sufficient.

f. There is no outdoor receptacle outlet shown at the front and back of the one-family dwelling. There is no 125-volt receptacle outlet shown at an accessible location within 25 feet of HVAC equipment.

g. The drawings do not contain information required by section 107.3.5 of the Florida Building Code-Building (FBC-B), requiring documents to show electrical overcurrent protection and wiring methods and materials.

h. The legend on drawing sheet S-2 has a symbol for a ceiling-mounted light (style by contractor), but the drawings contain no specifications for any fixtures.

i. The drawings show no circuitry for any lighting fixtures on this project.

j. The lighting design drawings contain no energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

17. The HVAC engineering design documents for the Betancourt Project show a new wall air conditioning unit, but no

size, no voltage, no disconnecting means, and no circuit for the unit. While it was clearly shown that section 2701.1 of the FBC-B requires that electrical equipment shall be designed in accordance with the provisions of the National Fire Protection association (NFPA) 70, the National Electric Code (NEC), it was not clearly shown what provision of the NEC, if any, these omissions from the drawing violated.

18. Section 1901.4 of the FBC requires construction documents to contain the specified compressive strength of concrete and the specified strength or grade of reinforcement. As Mr. Jeffery testified, structural engineering drawings also need to contain detail as to how a piling is anchored to the pile cap, particularly in plans designed, as these were, to withstand a wind sheer of 170 miles per hour. Mr. Jeffery also credibly testified that the overlap of reinforcing steel needed to be a minimum of 18 inches and that one of the bars was shown as 12 inches in total length, with about eight inches embedded into the footing, leaving only four inches of overlap. It was clearly and convincingly shown that the structural engineering design documents for the Betancourt Project are materially deficient as follows:

a. The strength of the concrete and reinforcing steel are missing.

b. There is no detail indicating how the piling is connected to the pile cap.

c. The lap length of the reinforcing steel in the masonry walls is too short.

Bullock Project

19. On or about May 19, 2014, Mr. Holt signed, sealed, and dated revised engineering drawings for a residential conversion/renovation project located at 251 Noah Court, Belle Glade, Florida (Bullock Project). The Bullock Project drawings included sheets A-1 through A-3.

20. It was clearly and convincingly shown that the electrical engineering design documents for the Bullock Project are materially deficient as follows:

a. There is an electrical riser diagram, but it contains only one panel and one electrical meter.

b. The drawings contain some conductor sizes, no insulation types, some circuit interrupting devices, and no fault current interrupting capability.

c. No surge protective devices are shown on the drawings, and there is no notation on the drawings indicating any reason for departure from this requirement.

d. One electrical distribution panel is shown for the south unit on Sheet A-1, but no panel is shown for the north unit. No meters are shown.

e. The drawings show no circuitry for outlets, equipment, devices, or smoke detectors.

f. The drawings do not indicate that an outdoor receptacle outlet is to be installed at the front and back of the Bullock Project.

g. The drawings contain partial load computations for the panel schedule on sheet A-1, but they are inadequate to explain the wiring. The calculation is 99 amps, but that is serving into only one panel, which is not an appropriate design.

h. The drawings do not contain information required by the FBC. Section 107.3.5 of the FBC-B requires branch circuitry and separate overcurrent protection for each of the two units, wiring methods and materials, and load calculations. While some information is included, it is incomplete, and some is incorrect.

i. The legend on drawing sheet A-1 has a symbol for a ceiling-mounted light, but the drawings contain no specifications for any lighting fixtures.

j. The drawings show no circuitry for any lighting fixtures for either unit.

k. The lighting design drawings contain no energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

21. It was clearly and convincingly shown that the HVAC engineering documents for the Bullock Project are materially deficient as follows:

a. The drawings did not contain adequate information for the City to determine compliance with codes and ordinances.

b. The drawings contain no air conditioning equipment schedules for air handling units and condensing units. The drawings do not contain cooling coil requirements based on sensible heat, latent heat and total heat gains; outside and inside design dry and wet bulb conditions; nor outside (fresh) air make-up conditions.

c. The drawings contain no specifications for heating equipment.

d. The drawings contain no condensate discharge piping layouts.

e. No HVAC ductwork is shown on the drawings.

f. The mechanical drawings do not contain all data required to complete the Florida Energy Code calculations, as required by the chapter 13 of the FBC-B.

22. It was clearly and convincingly shown that the plumbing engineering design documents for the Bullock Project are materially deficient as follows:

a. The drawings contain no plumbing equipment schedules.

b. No potable water isometric diagrams are shown. Total water fixture units for either dwelling unit are not shown on the drawings.

c. One isometric sanitary riser diagram is shown; however, total flow waste fixture units for both dwelling units are not shown on the drawings.

d. No storm riser diagrams or area drainage calculations are shown on the drawings.

e. The drawings contain no sanitary piping layouts, no cold water, no hot water, and no storm drainage piping layouts.

f. Florida Building Code—Plumbing (FBC-P), 2010 Edition, is noted as an applicable plumbing code. However no other codes, design standards, or requirements are shown on the drawings.

g. No specifications for materials for plumbing systems are shown on the drawings.

23. It was clearly and convincingly shown that the structural engineering design documents for the Bullock Project are materially deficient as follows:

a. The strength of materials for the reinforcing steel, grout, and masonry are missing.

b. There is no detail indicating how the piling is to be connected to the grade beam.

c. The engineer of record's engineering requirements for the delegated engineer for the wood roof trusses are missing. The phrase "pre-engineered wood trusses" appears, but no requirements.

Morales Project

24. On or about July 16, 2014, Mr. Holt signed, sealed, and dated engineering drawings for a residential extension project located at 1033 Whitaker Road, Belle Glade, Florida (Morales Project). The Morales Project drawings included sheets S-1 and S-2.

25. It was clearly and convincingly shown that the electrical engineering design documents for the Morales Project are materially deficient as follows:

a. The plan view on sheet S-1 shows the existing electric meter is to remain on the new covered patio, with no mention that the contractor needs to raise the height of the weather head so that it is at least eight feet above the roof as required by NEC 230.24.

b. The drawings contain no panel schedules, no circuit interrupting devices, and no fault current interrupting capability.

c. No surge protective devices are shown on the drawings.

d. The drawings show no new panel, no existing panel, and no sizes, except for the addition of one 20-amp breaker. Whether or not a new or existing panel would have adequate physical space or electrical capacity to add the 20-amp breaker is not addressed.

e. The drawings contain no circuitry for loads added by this project, or existing circuitry, and thus are deficient in circuiting all outlets, equipment and devices.

f. NEC 210.52(E)(1) requires that at least one outdoor receptacle outlet be installed at the front and back of a one-family dwelling. No outlet is indicated.

g. The drawings do not contain all information required by the FBC. Section 107.3.5 of the FBC-B requires that documents show electrical wiring, branch circuits, grounding, wiring methods and materials, and load calculations. The information that is provided is inadequate.

h. The drawings contain no information on the performance specifications or number of lamps on the ceiling fans.

i. The drawings show no circuitry for any lighting fixture, and no panel is shown.

j. The design drawings contain no energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

26. It was clearly and convincingly shown that the mechanical engineering design (HVAC) documents for the Morales Project are materially deficient in that the HVAC Scope of Work included a toilet exhaust fan for ventilation. No heat was specified, and the exhaust fan size was omitted from the drawings.

27. It was clearly and convincingly shown that the plumbing engineering design documents for the Morales Project are materially deficient as follows:

a. The drawings contain no equipment schedules for all plumbing fixtures, water heater, valves, and accessories.

b. Potable water isometric diagrams and total water fixture units are not shown on the drawings.

c. Total sanitary waste fixture units are not shown on the drawings.

d. No storm riser diagrams or area drainage calculations are shown on the drawings.

e. The drawings contain no piping layouts for cold water, hot water, sanitary, or storm drainage.

f. The drawings acknowledge that FBC-P, 2010 Edition, is applicable to this project, but fail to list other applicable codes and standards.

g. No specifications for materials for plumbing systems are shown on the drawings.

28. It was clearly and convincingly shown that the structural engineering design documents for the Morales Project are materially deficient as follows:

a. The strength of materials for the concrete, reinforcing steel, grout and masonry are missing.

b. There is no reinforcing steel designated for the concrete piles.

c. The lap length of the reinforcing steel in the masonry walls is missing.

d. There is no detail indicating how the piling is connected to the pile cap.

e. The drawings indicate that a 6" x 6" x 16" concrete masonry unit (CMU) block wall is an optional alternative. Contrary to Mr. Holt's argument, the bathroom walls are not interior walls in this design, as they are bounded by a porch, and this size block is inadequate to resist the design wind pressures.

29. Mr. Holt failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering principles in the Betancourt, Bullock, and Morales Projects. It was clearly and convincingly shown that Mr. Holt engaged in negligence in the practice of engineering in each project.

Prior Discipline

30. Mr. Holt was charged in FEMC Case No. 01-0159 with engaging in negligence in the practice of engineering. In 2002, he was disciplined by the Board in FEMC Case Nos. 01-0159, 01-0106, and 01-0170 after a settlement stipulation.

31. Mr. Holt was charged in FEMC Case No. 2005048785 with engaging in negligence in the practice of engineering. In 2006, he was disciplined by the Board in that case after a settlement stipulation.

32. Mr. Holt was charged in FEMC Case No. 2007068131 with engaging in negligence in the practice of engineering. In 2010, he was disciplined by the Board in that case after settlement stipulation.

33. Mr. Holt was charged in FEMC Case No. 2007047569 with engaging in negligence in the practice of engineering. In 2010, he was disciplined by the Board in that case after settlement stipulation.

CONCLUSIONS OF LAW

34. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this proceeding under sections 120.569 and 120.57(1), Florida Statutes (2015).

35. Petitioner seeks to take disciplinary action against Respondent's engineering license. A proceeding to impose discipline against a professional license is penal in nature, and Petitioner bears the burden to prove the allegations in the Administrative Complaint by clear and convincing evidence. Dep't of Banking & Fin. v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

36. Clear and convincing evidence has been said to require:

> [T]hat the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Henson, 913 So. 2d 579, 590 (Fla. 2005)(quoting Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)).

37. Section 471.033(1)(g) provided that "[e]ngaging in fraud or deceit, negligence, incompetence, or misconduct, in the practice of engineering" is a ground for disciplinary action.

38. Section 471.033(2) authorized and required the Board to specify, by rule, what acts or omissions constitute negligence in the practice of engineering. The Board adopted Florida Administrative Code Rule 61G15-19.001(4), which provided:

> A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in Section 471.033(1)(g), F.S., is herein defined as the 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. Professional engineers shall approve and seal only those documents that conform to acceptable engineering standards and safeguard the life, health, property and welfare of the public.
>
> Failure 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.

39. The Board adopted the Responsibility Rules as chapters 61G15-30, 61G15-31, 61G15-32, 61G15-33, 61G15-34, 61G15-35, and 61G15-36.

40. Rule 61G15-30.002(1) defines the "Engineer of Record" as a Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing, and issuing of any engineering document(s) for any engineering service or creative work.

41. Rule 61G15-30.002(4) defines "engineering documents" to be designs, plans, specifications, drawings, prints, reports, or similar instruments of service in connection with engineering services or creative work that have been prepared and issued by the professional engineer or under his responsible supervision, direction, or control.

42. Rule 61G15-30.002(6) provides that an engineering document is "filed for public record" when the document is presented, with the engineer of record's knowledge and consent, to any federal, state, county, district, authority, municipal, or other governmental agency in connection with the transaction of official business with said agency.

43. Rule 61G15-30.002(7) provided that documents filed for public record with the Authority Having Jurisdiction (AHJ) to determine compliance with codes and standards and to be used for execution of the project are required to be signed and sealed.

44. Rule 61G15-30.003, entitled "Minimum Requirements for Engineering Documents," provided in part:

> (1) Engineering Documents are prepared in the course of performing engineering services. When prepared for inclusion with an application for a general building permit, the Documents shall meet all Engineer's Responsibility Rules, set forth in Chapters 61G15-31, 61G15-32, 61G15-33, and 61G15-34, F.A.C., and 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 the Florida Building Code, adopted in Section 553.73, F.S., and applicable laws, ordinances, rules and regulations, as determined by the AHJ. The Documents shall:
>
> * * *
>
> (b) List Federal, State, Municipal, and County standards, codes, ordinances, laws, and rules, with their effective dates, that the Engineering Documents are intended to conform to.
>
> * * *
>
> (e) Identify clearly elements of the design that vary from the governing standards and depict/identify the alternate method used to ensure compliance with the stated purpose of these Responsibility Rules.
>
> * * *

> (3) When elements of the project are shown on an engineering document only for information or clarification and the Engineer does not intend to accept responsibility for the elements, the engineer shall clearly note on the documents the extent of his responsibility.

45. Respondent's position at hearing--that he signed and sealed the documents only as a structural engineer, and that he did not therefore assume responsibility for any elements of the drawings reflecting electrical or mechanical engineering--is rejected. Under the circumstances here, the notations on the drawings do not absolve Respondent of responsibility for the electrical and mechanical engineering portions of the documents.

Count I

46. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient electrical engineering plans issued and filed for public record for the Betancourt Project.

47. Rule 61G15-33.003, entitled "Design of Power Systems," provided:

> (1) Power systems convey or distribute electrical energy. Items to be included in the design and analysis of these systems are: steady state and transient loads, short circuit analysis and protection (design and analysis), load flow, voltage drop, harmonics and protective device coordination.

(2) Electrical Engineering Documents applicable to power systems shall at a minimum indicate the following:

(a) Power Distribution Riser Diagram with short circuit values.

(b) Conductor Ampacities (sizes) and insulation type.

(c) Circuit interrupting devices and fault current interrupting capability.

(d) Location and characteristics of surge protective devices.

(e) Main and distribution equipment, control devices, locations and sizes.

(f) Voltage drop calculations for the feeders and customer-owned service conductors are required. Additionally, the documents shall state the reasons why the two percent limit for feeders and customer-owned service conductors are not being met, if applicable.

(g) Circuitry of all outlets, equipment and devices.

(h) Load computations.

(i) Electrical legends.

(j) Grounding and bonding.

(k) Instrumentation and control where required.

(l) Record documents applicable to power systems shall, at a minimum, contain information as required by Florida Building Code.

(m) Installation and testing requirements of required emergency and standby power systems.

48. Rule 61G15-33.004(2), entitled "Design of Lighting Systems," provided:

> (2) Electrical Engineering documents for lighting systems shall, at a minimum, indicate the following:
>
> (a) Lighting fixture performance specifications and arrangements.
>
> (b) Emergency lighting, egress and exit lighting.
>
> (c) Exit Lighting.
>
> (d) Lighting control and circuiting.
>
> (e) Calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

49. Rule 61G15-33.003(2)(l) required that documents applicable to power systems shall contain information required by the FBC. Section 107.3.5 of the FBC-B requires documents to show electrical overcurrent protection and wiring methods and materials.

50. Section 2701.1 of the FBC-B stated that electrical components, equipment, and systems shall be designed and constructed in accordance with the provisions of the NFPA 70, the NEC.

51. NEC 210.52(E)(1) provided that a one-family dwelling and each unit of a two-family dwelling at grade level shall have at least one receptacle outlet at the front and back of the dwelling.

NEC 210.63 required a 125-volt receptacle outlet to be installed at an accessible location within 25 feet of HVAC equipment.

52. In support of Count I, Petitioner showed numerous deviations and departures from the requirements of the Responsibility Rules governing electrical engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment.

53. Omission of circuit values and voltage calculations for the feeders and customer-owned service conductors are violations of rule 61G15-33.003(2)(a) and (f). Omission of conductor sizes, insulation types, circuit-interrupting devices, and fault current interrupting capability constitute violations of rule 61G15-33.003(2)(b) and (c). The absence of information on the location and characteristics of surge protective devices is a violation of rule 61G15-33.003(2)(d). Failure to show the main electrical panel on the plans is a violation of rule 61G15-33.003(2)(e). The absence of circuitry for electrical power loads is a violation of rule 61G15-33.004(2)(g). The absence of a receptacle at the back of the Betancourt dwelling constitutes a violation of NEC 210.52(E)(1). The absence of a 125-volt receptacle outlet at an accessible location within 25 feet of HVAC equipment violates NEC 210.63. The failure of the drawings to show electrical overcurrent protection and wiring methods and

materials is a violation of section 107.3.5 of the FBC-B and rule 61G15-33.003(2)(1). The omission of the specifications for the ceiling-mounted light is a violation of rule 61G15-33.004(2)(a). The lack of circuitry for any lighting fixtures is a violation of rule 61G15-33.004(2)(d). The lack of an energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction is a violation of rule 61G15-33.004(2)(e).

54. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed electrical engineering documents for the Betancourt Project that did not conform to acceptable engineering standards.

55. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient electrical engineering documents issued and filed for public record for the Betancourt Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count II

56. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient HVAC engineering plans issued and filed for public record for the Betancourt Project.

57. Rule 61G15-34.001, entitled "General Responsibility," provided, in part:

> Mechanical Engineering documents shall demonstrate compliance with the requirements of the applicable codes and standards as defined herein.
>
> * * *
>
> Construction documents shall indicate the nature and character of mechanical work and shall describe, label and define the required mechanical systems components, processes, equipment and material and its structural utility support systems.

58. Rule 61G15-34.003, entitled "Design of Heating, Ventilation and Air Conditioning Systems," provided, in part:

> (1) Heating, Ventilating and Air Conditioning (HVAC) Systems include those systems that control the temperature, humidity, or mechanical ventilation of a particular space or building.
>
> (2) All HVAC systems shall be designed in accordance with the Florida Codes, and reference standards as adopted by the authority having jurisdiction.

59. Section 2701.1 of the FBC-B provided, in part, that "[e]lectrical components, equipment, and systems shall be designed and constructed in accordance with the provisions of the NFPA 70, National Electrical Code."

60. In support of Count II, Mr. Ooten testified that the failure to show the size, voltage, disconnecting means, and circuit for a new wall air conditioning unit was a violation of

NFPA 70, the NEC, but no provision of that code was cited. It was not clearly or convincingly shown exactly what the NEC required, or that the HVAC engineering documents signed and sealed by Respondent failed to meet NEC requirements.

61. Petitioner failed to prove by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient HVAC engineering documents issued and filed for public record for the Betancourt Project.

Count III

62. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient structural engineering plans issued and filed for public record for the Betancourt Project.

63. Rule 61G15-31.002 provided, in part:

> (5) Structural Engineering Documents. The structural drawings, specifications and other documents setting forth the overall design and requirements for the construction, alteration, repair, removal, demolition, arrangement and/or use of the structure, prepared by and signed and sealed by the engineer of record for the structure. Structural engineering documents shall identify the project and specify design criteria both for the overall structure and for structural components and structural systems. The drawings shall identify the nature, magnitude and location of all design loads to be imposed on the structure. The structural engineering

> documents shall provide construction requirements to indicate the nature and character of the work and to describe, detail, label and define the structure's components, systems, materials, assemblies, and equipment.

64. Rule 61G15-30.003(1) provided that engineering documents show in detail that they conform to the provisions of the FBC.

65. Section 1901.4 of the FBC provided in part:

> The construction documents for structural concrete construction shall include:
>
> 1. The specified compressive strength of concrete at the stated ages or stages of construction for which each concrete element is designed.
>
> 2. The specified strength or grade of reinforcement.

66. In support of Count III, Petitioner showed deviations and departures from the requirements of the Responsibility Rules governing structural engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment. Mr. Jeffery credibly testified that the lack of detail as to how a piling is anchored to the pile cap, and the insufficient overlap of reinforcing steel in the drawings, constituted material deficiencies. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed structural engineering documents for the Betancourt Project that did not conform to acceptable engineering standards.

67. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient structural engineering documents issued and filed for public record for the Betancourt Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count IV

68. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient electrical engineering plans issued and filed for public record for the Bullock Project.

69. In support of Count IV, Petitioner showed numerous deviations and departures from the requirements of the Responsibility Rules governing electrical engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment.

70. One panel and one electrical meter does not allow each occupant in a multi-occupancy building to have access to service disconnecting means in violation of NEC 230.72(C). The omission of conductor sizes, insulation types, circuit interrupting devices, and no fault current interrupting capability are violations of rule 61G15-33.003(2)(b) and (c). The absence of surge protective devices in the drawings is a violation of rule

61G15-33.003(2)(d). The absence of an electrical distribution panel for the north unit and absence of meters are violation of rule 61G15-33.003(2)(e). The omission of circuitry for electrical power loads constitutes a violation of rule 61G15-33.003(2)(g). The omission of an outdoor receptacle outlet at the front and back of the Bullock Project is a violation of NEC 210.52(E)(1). The partial and inadequate load computations for the panel schedule on sheet A-1 are violations of rule 61G15-33.003(2)(h). Inadequate branch circuitry, wiring methods, and load calculations, as well as the lack of separate overcurrent protection for each of the two units are violations of section 107.3.5 of the FBC-B and rule 61G15-33.003(2)(l). The absence of specifications for the ceiling-mounted light is a violation of rule 61G15-33.004(2)(a). The absence of circuitry for any lighting fixtures in either unit is a violation of rule 61G15-33.004(2)(d). The absence of an energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction is a violation of rule 61G15-33.004(2)(e).

71. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed electrical engineering documents for the Bullock Project that did not conform to acceptable engineering standards.

72. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in

signing and sealing materially deficient electrical engineering documents issued and filed for public record for the Bullock Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count V

73. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient HVAC engineering plans issued and filed for public record for the Bullock Project.

74. Rule 61G15-34.003, entitled "Design of Heating, Ventilation and Air Conditioning Systems," provided, in part:

> (1) Heating, Ventilating and Air Conditioning (HVAC) Systems include those systems that control the temperature, humidity, or mechanical ventilation of a particular space or building.
>
> (2) All HVAC systems shall be designed in accordance with the Florida Codes, and reference standards as adopted by the authority having jurisdiction.
>
> (3) The Engineer of Record shall determine the level of detail shown on plans for an HVAC system for mechanical engineering plans pertaining to HVAC systems exempted by the threshold requirements for mandatory use of professional engineering services. All such plans shall provide a clear understanding of the minimum system requirements expected to be installed by the contractor.
>
> (4) For Mechanical Engineering Documents pertaining to HVAC systems that exceed the threshold requirements for mandatory use of

professional engineering services, the plans shall indicate the following:

(a) Demonstrate and provide adequate information for the AHJ to determine compliance with codes and ordinances. These may include test methods and results; data and tabulations for Energy Conservation that are results of the design.

(b) Equipment selection schedule for each piece of mechanical equipment. All equipment shall have capacities listed including efficiencies, electrical or fuel requirements, static pressure and fan air quantities as applicable to the system, fluid flow and pressure head quantities as applicable to the system, and heat transfer capacities.

(c) Floor plans; site plans; and building and mechanical system elevations as appropriate.

(d) Outside (fresh) air make-up conditions.

(e) Cooling coil requirements based on sensible heat, latent heat and total heat gains.

(f) Heating equipment requirements.

(g) Outside and inside design dry and wet bulb conditions.

(h) Exhaust riser diagrams on buildings more than three stories when ductwork travels vertically.

(i) Outside air riser diagrams on buildings more than three stories when ductwork travels vertically.

(j) Process flow diagrams with pipe sizes and fluid flow quantities.

(k) Condensate discharge piping layout with pipe sizes.

(l) Instrumentation and Control System diagrams and sequence of operation.

(m) Ductwork layout and sizing; insulation requirements, supply, return, and exhaust inlet and outlet sizes; and outside air intake sizes. Air quantities shall be specified for inlets and outlets.

(n) All data needed to complete the Florida Energy Code calculations as applicable.

(o) A list of referenced NFPA Standards and layouts of all required fire protection devices and systems.

(p) Building pressurization criteria.

75. In support of Count V, Petitioner showed deviations and departures from the requirements of the Responsibility Rules governing HVAC engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed HVAC engineering documents for the Bullock Project that did not conform to acceptable engineering standards.

76. The lack of information for the City to ensure compliance with Florida codes is a violation of rule 61G15-34.003(4)(a). The absence of air conditioning equipment schedules for air handling units and condensing units is a violation of rule 61G15-34.003(4)(b). The absence of cooling coil requirements based on sensible heat, latent heat, and total

heat gains is a violation of rule 61G15-34.003(4)(e). The absence of outside and inside design dry and wet bulb conditions is a violation of rule 61G15-34.003(4)(g). The absence of outside (fresh) air make-up conditions is a violation of rule 61G15-34.003(4)(d). The omission of specifications for heating equipment is a violation of rule 61G15-34.003(4)(f). The lack of condensate discharge piping layouts is a violation of rule 61G15-34.003(4)(k). The absence of HVAC ductwork in the drawings is a violation of rule 61G15-34.003(4)(m). Insufficient data required to complete the Florida Energy Code calculations is a violation of chapter 13 of the FBC-B and rule 61G15-34.003(4)(n).

77. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient HVAC engineering documents issued and filed for public record for the Bullock Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count VI

78. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient plumbing engineering plans issued and filed for public record for the Bullock Project.

79. Rule 61G15-34.007, entitled "Design of Plumbing Systems," provided, in part:

(1) Plumbing systems are those systems within a building that convey fluids and gases generally as required by building codes.

(2) 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.

(b) Floor plans, site plans, and building and plumbing system elevations are appropriate.

(c) Potable Water isometric diagrams with pipe sizes and total water fixture units.

(d) Sanitary riser diagrams with pipe sizes and total sanitary waste fixture units.

(e) Storm riser diagrams with pipe sizes and cumulative drain area square footages.

(f) Cold water, hot water, sanitary, and storm drainage piping layouts.

(g) System isometrics and flow diagrams of other fluids and gases.

(h) Design data for septic tank, grease trap(s), drain field sizing, when applicable.

(i) List of ASHRAE, ASME, ASPE, ANSI and other applicable codes, design standards and requirements.

(j) Design shall be in accordance with handicap requirements adopted by the authority having jurisdiction.

(k) Instrumentation and Control Diagrams and sequence of operation.

(l) All plumbing fixtures, valves, pumps, tanks, accessories, specialties, enclosures, and such equipment shall be described and located on the drawings.

(m) Materials for all plumbing systems shall be specified.

80. In support of Count VI, Petitioner showed several deviations and departures from the requirements of the Responsibility Rules governing plumbing engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment.

81. The omission of plumbing equipment schedules is a violation of rule 61G15-34.007(2)(a) and (l). The omission of the potable water isometric diagrams and total water fixture units are violations of rule 61G15-34.007(2)(c). The omission of total waste fixture units and the omission of the second isometric sanitary riser diagram are violations of rule 61G15-34.007(2)(d). The omission of storm riser diagrams and area drainage calculations is a violation of rule 61G15-34.007(2)(e). The omission of sanitary, cold water, hot water, and storm drainage piping layouts are violations of rule 61G15-34.007(2)(f). The omission of applicable codes, design standards, and requirements, other than FBC-P, 2010 Edition, is a violation of rule 61G15-34.007(2)(i). The absence of

specifications for materials for plumbing systems is a violation of rule 61G15-34.007(2)(m).

82. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed plumbing engineering documents for the Bullock Project that did not conform to acceptable engineering standards.

83. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient plumbing engineering documents issued and filed for public record for the Bullock Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count VII

84. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient structural engineering plans issued and filed for public record for the Bullock Project.

85. Rule 61G15-30.002(3) defines "delegated engineer," in part, as a Florida professional engineer who undertakes a specialty service and provides services or creative work (delegated engineering document) regarding a portion of the engineering project.

86. Rule 61G15-31.003(2), pertaining to design of structures utilizing prefabricated wood trusses, requires that the structural

Engineer of Record shall provide written design requirements to the delegated engineer and shall review the design documents of the delegated engineer for conformance to his written instructions.

87. In support of Count VII, Petitioner showed deviations and departures from the requirements of the Responsibility Rules governing structural engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment. Petitioner clearly and convincingly showed Respondent failed to utilize due care and that he signed and sealed structural engineering documents for the Bullock Project that did not conform to acceptable engineering standards.

88. The failure to specify the strength of materials for the reinforcing steel, grout, and masonry is a violation of section 1901.4 of the FBC and rule 61G15-30.003(1). The failure to specify how the piling is to be connected to the grade beam is a violation of rule 61G15-31.002(5). The absence of engineering requirements for the delegated engineer for the wood roof trusses is a violation of rule 61G15-31.003(2).

89. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient structural engineering documents issued and filed for public record for the Bullock

Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count VIII

90. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient electrical engineering plans issued and filed for public record for the Morales Project.

91. In support of Count VIII, Petitioner showed numerous deviations and departures from the requirements of the Responsibility Rules governing electrical engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed electrical engineering documents for the Morales Project that did not conform to acceptable engineering standards.

92. The failure to indicate that the meter needed to be moved to provide a clearance of at least eight feet is a violation of NEC 230.24(A). The omission of circuit interrupting devices and fault current interrupting capability on the drawings are violations of rule 61G15-33.003(2)(c). The lack of surge protective devices on the drawings is a violation of rule 61G15-33.003(2)(d). The absence of a new panel, locations, and sizes--other than one 20-amp breaker--are violations of rule 61G15-

33.003(2)(e). The absence of circuitry for loads added by the project, or existing circuitry are violations of rule 61G15-33.003(2)(g). The failure to indicate an outdoor receptacle outlet at the front and back of the dwelling is a violation of NEC 210.52(E)(1). The omission of adequate electrical wiring, branch circuits, grounding, wiring methods and materials, and load calculations is a violation of section 107.3.5 of the FBC-B and rule 61G15-33.003(2)(l). The lack of information on the performance specifications or number of lamps on the ceiling fans is a violation of rule 61G15-33.004(2)(a). The absence of a panel and circuitry for any lighting fixture is a violation of rule 61G15-33.004(2)(d). The lack of an energy form or calculated values to demonstrate compliance with the Florida Energy Code for Building Construction is a violation of rule 61G15-33.004(2)(e).

93. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient electrical engineering documents issued and filed for public record for the Morales Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count IX

94. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by

signing and sealing materially deficient HVAC engineering plans issued and filed for public record for the Morales Project.

95. In support of Count IX, Petitioner showed a deviation and departure from the requirements of the Responsibility Rules governing HVAC engineering documents. This deviation and departure was not justified by the specific circumstances of the project and sound professional engineering judgment. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and sealed HVAC engineering documents for the Morales Project that did not conform to acceptable engineering standards.

96. No heat was specified, and the size of the toilet exhaust fan for ventilation was omitted from the drawings, a violation of rule 61G15-34.003(4)(b).

97. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient HVAC engineering documents issued and filed for public record for the Morales Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count X

98. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by

signing and sealing materially deficient plumbing engineering plans issued and filed for public record for the Morales Project.

99. In support of Count X, Petitioner showed several deviations and departures from the requirements of the Responsibility Rules governing plumbing engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment.

100. The omission of equipment schedules for all plumbing fixtures, water heater, valves, and accessories is a violation of rule 61G15-34.007(2)(a) and (l). The omission of potable water isometric diagrams and total water fixture units is a violation of rule 61G15-34.007(2)(c). The omission of the total waste fixture units is a violation of rule 61G15-34.007(2)(d). The omission of storm riser diagrams and area drainage calculations are violations of rule 61G15-34.007(2)(e). The lack of cold water, hot water, sanitary, and storm drainage piping layouts are violations of rule 61G15-34.007(2)(f). The failure to list applicable codes and standards, other than the FBC-P, 2010 Edition, is a violation of rule 61G15-34.007(2)(i). The absence of specifications for materials for plumbing systems constitutes a violation of rule 61G15-34.007(2)(m).

101. Petitioner clearly and convincingly showed that Respondent failed to utilize due care and that he signed and

sealed plumbing engineering documents for the Morales Project that did not conform to acceptable engineering standards.

102. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient plumbing engineering documents issued and filed for public record for the Morales Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Count XI

103. Petitioner alleges that Respondent violated the provisions of section 471.033(1)(g) and rule 61G15-19.001(4) by signing and sealing materially deficient structural engineering plans issued and filed for public record for the Morales Project.

104. In support of Count XI, Petitioner showed deviations and departures from the requirements of the Responsibility Rules governing structural engineering documents. These deviations or departures were not justified by the specific circumstances of the project and sound professional engineering judgment.

105. The failure to specify the strength of materials for the concrete, reinforcing steel, grout, and masonry is a violation of section 1901.4 of the FBC and rule 61G15-30.003(1). The failure to designate reinforcing steel for the concrete piles, specify the lap length for the reinforcing steel in the walls, or specify how the piling is to be connected to the pile

cap are violations of rule 61G15-31.002(5). The option to use 6" x 6" CMU Block on the bathroom wall is inadequate to resist the design wind pressures and is a violation of rule 61G15-31.002(5).

106. Petitioner clearly and convincingly showed Respondent failed to utilize due care and that he signed and sealed structural engineering documents for the Morales Project that did not conform to acceptable engineering standards.

107. Petitioner proved by clear and convincing evidence that Respondent engaged in negligence in the practice of engineering in signing and sealing materially deficient structural engineering documents issued and filed for public record for the Morales Project, in violation of section 471.033(1)(g) and rule 61G15-19.001(4).

Penalty

108. Section 455.227(2), Florida Statutes, provided:

> When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:
>
> (a) Refusal to certify, or to certify with restrictions, an application for a license.
>
> (b) Suspension or permanent revocation of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

109. The Board established disciplinary guidelines in rule 61G15-19.004(2)(g)2.a., which provided that for a second or subsequent violation of engaging in negligence in the practice of engineering, the penalty shall range from two years of probation and a $1,000.00 fine to a $5,000.00 fine and revocation.

110. Aggravating and mitigating circumstances were set forth in rule 61G15-19.004(3), which provided in part:

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.

2. In the case of negligence; of the magnitude and scope of the project and the

damage inflicted upon the general public by the licensee's misfeasance.

3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.

4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 455.225(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligence, the minor nature of the project in question and lack of danger to the public health, safety and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.

3. Restitution of any damages suffered by the licensee's client.

4. The licensee's professional standing among his peers including continuing education.

5. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.

111. Respondent has a history of previous violations, and there was potential danger to the public safety. On the other hand, the three projects here were relatively minor in nature, and there was no evidence of any damages suffered. None of the

aggravating or mitigating circumstances delineated in the rule are present here to the extent necessary to warrant deviation from the range of penalties permitted within the guidelines.

RECOMMENDATION

Upon consideration of the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered by the Florida Board of Professional Engineers:

Finding that John D. Holt, P.E., engaged in negligence in the practice of engineering, in violation of section 471.033(1)(g), Florida Statutes, and Florida Administrative Code Rule 61G15-19.001(4); suspending his professional engineer license for a period of one year, to be reinstated under such conditions and terms, including a period of probation, as the Board finds appropriate; and imposing an administrative fine in the amount of $10,000.00.

DONE AND ENTERED this 16th day of March, 2016, in Tallahassee, Leon County, Florida.

F. SCOTT BOYD
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
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Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of March, 2016.

ENDNOTES

[1/] Except as otherwise indicated, references to statutes and rules are to versions in effect at the time the engineering documents were signed and sealed. The language of section 471.033 was not amended in the 2014 regular session.

[2/] Mr. Ooten's agreement at hearing with the statement of Mr. Holt's counsel, that it was just as likely that Mr. Holt was negligent in failing to put down the limitations on the drawings as that he was negligent in their preparation, is completely rejected as a matter of fact. Mr. Holt's complete responsibility for the documents at the time he signed and sealed them was clearly shown by the evidence. The claim that he was not responsible for the mechanical and electrical elements is found to be a recent fabrication in response to the charges against him.

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Tallahassee, Florida 32399
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

FILED
Florida Engineers Management Corporation
SEP 15 2015
Clerk: [signature]

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Evelle Lawson-Proctor
Date 9/15/2015
File #

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v. FEMC Case No. 2014050099

JOHN D. HOLT, 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 JOHN D. HOLT, 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:

GENERAL ALLEGATIONS

(Common to All Specific Allegations)

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 Board pursuant to Section 471.038, Florida Statutes (1997).

2. JOHN D. HOLT, 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 15252. Respondent's last known address is 925 Azure Avenue, West Palm Beach, Florida 33414-8187.

3. The Board has adopted Responsibility Rules of Professional Engineers ("Responsibility Rules"). These Rules are contained in Chapters 61G15-30 to 61G15-36, Fla. Admin. Code. Professional Engineers who perform services covered by the Responsibility Rules are required to comply with the Rules.

4. 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 the "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."

5. Rule 61G15-19.001(4), Fla. Admin. Code, also provides :

> (4) ... Failure 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. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for all projects delineated in the Specific Allegations, is professionally responsible for the documents prepared. As such, Respondent is responsible for producing documents that comply with the applicable portions of the Responsibility Rules.

7. Respondent acted as Structural, Electrical, and Mechanical Engineer of Record for all projects delineated in the Specific Allegations as that term is defined in Rules 61G15-

30.002(1), 61G15-31.002(1), 61G15-33.002(1) and 61G15-34.002(1), Fla. Admin. Code. As such, all engineering documents prepared, signed, sealed and dated by Respondent must contain the information set out in Rule 61G15-30.003(1):

> (1) ... When prepared for inclusion with an application for a general building permit, the Documents shall meet all Engineer's Responsibility Rules, set forth in Chapters 61G15-31, ..., 61G15-33, and 61G15-34, F.A.C., and 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 the Florida Building Code[FBC], adopted in Section 553.73, F.S., and applicable laws, ordinances, rules and regulations, as determined by the Agency Having Jurisdiction (AHJ). The Documents shall include:
>
> (a) Information that provides material specifications required for the safe operation of the system that is a result of engineering calculations, knowledge and experience.
>
> (b) List Federal, State, Municipal, and County standards, codes, ordinances, laws, and rules, with their effective dates, that the Engineering Documents are intended to conform to.
>
> (c) Information, as determined by the Engineer of Record, needed for the safe and efficient operation of the system.
>
> (d) List engineering design criteria; reference project specific studies, reports, and delegated Engineering Documents.
>
> (e) Identify clearly elements of the design that vary from the governing standards and depict/identify the alternate method used to ensure compliance with the stated purpose of these Responsibility Rules.

8. The Florida Building Code (2010) – Building ("FBC-B") Section 107.2.1 "Information on construction documents" states: "Construction 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: "This 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 ("NEC")." FBC-B Section 2801.1 "Scope," states: Mechanical appliances, equipment and systems shall be constructed, installed

and maintained in accordance with the Florida Building Code, Mechanical ("FBC-M"). FBC-B Section 107.3.5 "Minimum plan review criteria for buildings" states: The examination of the documents by the building official shall include the following minimum criteria and documents: Mechanical: 1 Energy calculations; 2. Exhaust Systems, Clothes dryer exhaust, Kitchen equipment exhaust; 3. Equipment; 5 Make-up air; 7. Duct Systems; 8. Ventilation; 9 Combustion air. FBC-B Section 2901.1 Scope, states: "Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the Florida Building Code, Plumbing ("FBC-P")."

9. Rule 61G15-30.005, Fla. Admin. Code, "Delegation of Engineering Documents: Obligation of the Engineer of Record" states in part:

> (1) An engineer of record who delegates a portion of his responsibility to a delegated engineer is obligated to communicate in writing his engineering requirements to the delegated engineer.

10. Rule 61G15-33.001, Fla. Admin. Code, "Responsibility Rules of Professional Engineers Concerning the Design of Electrical Systems" "General Responsibility" states in material part:

> 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 . . . ."

11. Rule 61G15-33.003(2) "Design of Power Systems," requires in material part:

> (2) 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;
> (b) Conductor Ampacities (sizes) and insulation type;
> (c) Circuit interrupting devices and fault current interrupting capability;
> (d) Location and characteristics of surge protective devices;

(e) Main and distribution equipment, control devices, locations and sizes;
(f) Voltage drop calculations for the feeders and customer-owned service conductors . . .;
(g) Circuitry of all outlets, equipment and devices;
(h) Load computations;
(l) Record documents applicable to power systems shall, at a minimum, contain information as required by Florida Building Code.

12. Rule 61G15-33.004(2) "Design of Lighting Systems", requires in material part:

(2) Electrical Engineering Documents applicable to the design of lighting systems shall, at a minimum, indicate the following:
(a) Lighting fixture performance specifications and arrangements;
(d) Lighting control and circuiting;
(e) Calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.

13. Rule 61G15-34.001"Responsibility Rules of Professional Engineers Concerning the Design of Mechanical Systems" states that:

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

Rule 61G15-34.003(2) and (4), Fla. Admin. Code, "Design of Heating, Ventilation and Air Conditioning (HVAC) Systems," requires in material part that "(2) All HVAC systems shall be designed in accordance with the Florida Codes, and reference standards as adopted by the authority having jurisdiction ["AHJ]"... and

(4) For Mechanical Engineering Documents pertaining to HVAC systems that exceed the threshold requirements for mandatory use of professional engineering services, the plans shall indicate the following:
(a) Demonstrate and provide adequate information for the AHJ to determine compliance with codes and ordinances. These may include test methods and results; data and tabulations for Energy Conservation that are results of the design;
(b) Equipment selection schedule for each piece of mechanical equipment. All equipment shall have capacities listed including efficiencies, electrical

> or fuel requirements, static pressure and fan air quantities as applicable to the system, . . . ;
> (d) Outside (fresh) air make-up conditions;
> (e) Cooling coil requirements based on sensible heat, latent heat and total heat gains;
> (f) Heating equipment requirements;
> (g) Outside and inside design dry and wet bulb conditions;
> (k) Condensate discharge piping layout with pipe sizes;
> (n) All data needed to complete the Florida Energy Code calculations as applicable.

14. Rule 61G15-34.001, Fla. Admin. Code, "Mechanical Systems" states: "[c]onstruction documents shall . . . define the required mechanical systems, including plumbing components, processes, equipment and material . . ." Rule 61G15-34.007(2), Fla. Admin. Code, "Design of Plumbing Systems," requires in material part:

> (2) 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;
> (c) Potable Water isometric diagrams with pipe sizes and total water fixture units;
> (d) Sanitary riser diagrams with pipe sizes and total sanitary waste fixture units;
> (e) Storm riser diagrams with pipe sizes and cumulative drain area square footages;
> (f) Cold water, hot water, sanitary, and storm drainage piping layouts;
> (i) List of ASHRAE, ASME, ASPE, ANSI and other applicable codes, design standards and requirements;
> (l) All plumbing fixtures, valves, pumps, tanks, accessories, specialties, enclosures, and such equipment shall be described and located on the drawings;
> (m) Material for all plumbing systems shall be specified.

SPECIFIC ALLEGATIONS

Betancourt Project

15. On or about July 29, 2014 Respondent signed, sealed and dated revised engineering drawings for a conversion/renovation project located at 117 N. W. Avenue H Place,

Belle Glade, Florida ("Betancourt Project"). The Betancourt Project drawings included Sheets S-1 through S-3.

16. Respondent's Electrical Engineering Design Documents for the Betancourt Project are materially deficient as follows:

A. The drawings contain an Electrical Riser Diagram, but 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 drawings contain some conductor sizes, no insulation types, some circuit interrupting devices and no fault current interrupting capability. The omissions of conductor sizes, insulation types, circuit interrupting devices and fault current interrupting capability constitute violations of Rule 61G15-33.003(2)(b) and (c), Fla. Admin. Code.

C. No surge protective devices are shown on the drawings. The absence of this required information constitutes a violation of Rule 61G15-33.003(2)(d), Fla. Admin. Code.

D. The main electrical panel is shown on the Existing Electrical Riser, but it is not located on the plans. The absence of this required information constitutes a violation of Rule 61G-33.003(2)(e).

E. The drawings show no circuitry for outlets, equipment, devices, or smoke detectors. The absence of circuitry for electrical power loads constitutes a violation of Rule 61G15-33.004(2)(g), Fla. Admin. Code.

F. NEC 210.52(E)(1) requires for a one-family dwelling, at least one outdoor receptacle outlet . . . shall be installed at the front and back of the dwelling. The absence of such receptacle at the back of the Betancourt dwelling constitutes a violation of NEC 210.52(E)(1). NEC 210.63 requires a 125-volt receptacle outlet to be installed at an accessible location for servicing of HVAC equipment, within 25 feet of said equipment. Drawing Sheet S-1 shows no such outlet for the Betancourt project, which violates NEC 210.63.

G. The drawings do not contain information as required by the FBC. FBC-B Section 107.3.5 "Minimum plan review criteria for buildings" states: "The examination of the documents by the building official shall include the following minimum criteria and documents: Electrical, 1. Electrical overcurrent protection, wiring methods and materials." The absence of these FBC-B requirements constitutes a violation of Rule 61G15-003(2)(l), Fla. Admin. Code.

H. The legend on drawing Sheet S-2 has a symbol for a ceiling mounted light (style by contractor), but the drawings contain no information on the specifications of any fixtures (specified with ceiling fans, or wall-mounted light fixture on the front porch). This constitutes a violation of Rule 61G15-33.004(2)(a), Fla. Admin. Code.

I. The drawings show no circuiting for any lighting fixtures on this project. This constitutes a violation of Rule 61G15-33.004(2)(d), Fla. Admin. Code.

J. The lighting design drawings contain 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.

17. Respondent's Mechanical Engineering Design Documents for the Betancourt Project show a new A/C wall unit, but no size, no voltage, no disconnecting means and no circuit for the new A/C unit as required by the FBC-B, Section 2701.1, which requires that electrical equipment shall be designed and constructed in accordance with the provisions of the National Electrical Code; and, as a result, Respondent's drawings violate Rule 61G15-34.003(2), Fla. Admin. Code.

18. Respondent's Structural Engineering Design Documents for the Betancourt Project are materially deficient as follows:

A. The strength of materials for the concrete, reinforcing steel, grout and masonry are missing.

B. There is no detail indicating how the piling is connected to the pile cap.

C. The lap length of the reinforcing steel in the masonry walls is too short.

Bullock Project

19. On or about May 19, 2014 Respondent signed, sealed and dated revised engineering drawings for a residential conversion/renovation project located at 251 Noah Court, Belle Glade, Florida ("Bullock Project"). The Bullock Project drawings included Sheets A-1 through A-3.

20. Respondent's Electrical Engineering Design Documents for the Bullock Project are materially deficient as follows:

A. The drawings contain an Electrical Riser Diagram, erroneous short circuit values, and no voltage drop calculations for the feeders and customer-owned service conductors. The Riser Diagram contains only one panel and one electrical meter. This violates NEC 230.72(C) which requires each occupant in a multi-occupancy building to

have access to the occupant's service disconnecting means. These errors and omissions constitute violations of Rule 61G15-33.003(2)(a) and (f), Fla. Admin. Code.

B. The drawings contain some conductor sizes, no insulation types, some circuit interrupting devices, and no fault current interrupting capability. The omissions of conductor sizes, insulation types, circuit interrupting devices and fault current interrupting capability constitute violations of Rule 61G15-33.003(2)(b) and (c), Fla. Admin. Code.

C. No surge protective devices are shown on the drawings. This constitutes a violation of Rule 61G15-33.003(2)(d), Fla. Admin. Code.

D. One electrical distribution panel is shown for the south unit on Sheet A-1, but no panel is shown for the north unit. No meters are shown. These omissions constitute a violation of Rule 61G15-33.003(2)(e), Fla. Admin. Code.

E. The drawings show no circuitry for outlets, equipment, devices, or smoke detectors. The absence of circuitry for electrical power loads constitutes a violation of Rule 61G15-33.003(2)(g), Fla. Admin. Code.

F. NEC 210.52(E)(1) requires for each one-family dwelling, at least one outdoor receptacle outlet . . . shall be installed at the front and back of the dwelling. The absence of such receptacle at both the front and the back of the Bullock dwelling constitutes a violation of NEC 210.52(E)(1), Fla. Admin. Code.

G. The drawings contain partial load computations for a Panel A (plan shows an existing Panel E), but no computations for a second dwelling unit. NEC 230.72(C) requires that both units have access to the occupant's service disconnecting means. These omissions constitute violations of Rule 61G15-33.003(2)(h), Fla. Admin. Code.

H. The drawings do not contain information as required by the FBC. FBC-B Section 107.3.5 "Minimum plan review criteria for buildings" states: "The examination of the documents by the building official shall include the following minimum criteria and documents: Electrical, 1. Electrical Services, Feeders and branch circuits, overcurrent protection for all loads and separate overcurrent protection for both units, wiring methods and materials....; 7. Load Calculations." The absence of these FBC-B requirements, including incomplete and inaccurate load calculations, constitutes a violation of Rule 61G15-003(2)(l), Fla. Admin. Code.

I. The legend on drawing Sheet A-1 has a symbol for a ceiling mounted light (style by contractor), but the drawings contain no information on the specifications of any lighting fixtures, including those with ceiling fans, Hi Hats, fluorescent fixture in kitchen of South unit, or other. This omission constitutes a violation of Rule 61G15-33.004(2)(a), Fla. Admin. Code.

J. The drawings show no circuiting for any lighting fixtures for either unit. This omission constitutes a violation of Rule 61G15-33.004(2)(d), Fla. Admin. Code.

K. The lighting design drawings contain 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.

21. Respondent's Mechanical Engineering Design (HVAC) Documents for the Bullock Project are materially deficient as follows:

A. The drawings do not contain adequate information for the Authority Having Jurisdiction ("AHJ") to determine compliance with codes and ordinances. This omission violates Rule 61G15-34.003(4)(a), Fla. Admin. Code.

B. The drawings contain no air conditioning equipment schedules for air handling units and condensing units. The drawings do not contain cooling coil requirements based on sensible heat, latent heat and total heat gains; nor outside and inside design dry and wet bulb conditions; nor outside (fresh) air make-up conditions. These omissions constitute violations of Rule 61G15-34.003(4)(b), (d), (e) and (g), Fla. Admin. Code.

C. The drawings contain no specifications for heating equipment. This omission is a violation of Rule 61G15-34.003(4)(f), Fla. Admin. Code.

D. The drawings contain no condensate discharge piping layouts. The absence of condensate discharge piping constitutes a violation of Rule 61G15-34.003(4)(k), Fla. Admin. Code.

E. No HVAC ductwork is shown on the drawings. Omission of HVAC ductwork on the drawings constitutes a violation of Rule 61G15-34.003(4)(m), Fla. Admin. Code.

F. The mechanical drawings do not contain all data required to complete the Florida Energy Code calculations, as required by the FBC-B, Chapter 13. The absence of all data required to complete the Florida Energy Code calculations constitutes a violation of Rule 61G15-34.003(4)(n), Fla. Admin. Code.

22. Respondent's Mechanical Engineering (Plumbing) Design Documents for the Bullock Project are materially deficient as follows:

A. The drawings contain no plumbing equipment schedules. This omission violates Rule 61G15-34.007(2)(a) and (l), Fla. Admin. Code.

B. No potable water isometric diagrams are shown. Total water fixture units for either dwelling unit are not shown on the drawings. The omission of the potable water isometric diagrams and the omission of total water fixture units constitutes a violation of Rule 61G15-34.007(2)(c), Fla. Admin. Code.

C. One isometric sanitary riser diagram is shown; however, total flow waste fixture units for both dwelling units are not shown on the drawings. The omission of total waste fixture units and the omission of a second isometric sanitary riser diagram constitute a violation of Rule 61G15-34.007(2)(d), Fla. Admin. Code.

D. No storm riser diagrams are shown on the drawings. No area drainage calculations are shown on the drawings. The omission of storm riser diagrams and area drainage calculations constitutes a violation of Rule 61G15-34.007(2)(e), Fla. Admin. Code.

E. The drawings contain no sanitary piping layouts, no cold water, hot water, and no storm drainage piping layouts. These omissions constitute a violation of Rule 61G15-34.007(2)(f), Fla. Admin. Code.

F. FBC-P, 2010 Edition is noted as an applicable plumbing code. However no other codes, design standards or requirements are shown on the drawings. The omission of design standards and requirements constitutes a violation of Rule 61G15-34.007(2)(i), Fla. Admin. Code.

G. No materials for plumbing systems have been shown on the drawings. The absence of specifications for materials for plumbing systems constitutes a violation of Rule 61G15-34.007(2)(m), Fla. Admin. Code.

23. Respondent's Structural Engineering Design Documents for the Bullock Project are materially deficient as follows:

A. The strength of materials for the reinforcing steel, grout and masonry are missing.

B. There is no detail indicating how the piling is connected to the grade beam.

C. The engineer of record's engineering requirements for the delegated engineer for the wood roof trusses is missing.

Morales Project

24. On or about July 16, 2014, Respondent signed, sealed and dated revised engineering drawings for adding a residential extension project located at 1033 Whitaker Road, Belle Glade, Florida ("Morales Project"). The Morales Project drawings included Sheets S-1 and S-2.

25. Respondent's Electrical Engineering Design Documents for the Morales Project are materially deficient as follows:

A. The drawings contain no Electrical Riser Diagram, no short circuit values and no voltage drop calculations for the feeders and customer-owned service conductors. The Plan View (on Sheet S-1) shows the Existing FPL meter to remain on the New Covered Patio, with no mention of the required electrical service height to be 8 feet (minimum) above the roof (Per NEC 230.24). These omissions constitute violations of Rule 61G15-33.003(2)(a) and (f), Fla. Admin. Code.

B. The drawings contain no panel schedules, no circuit interrupting devices, and no fault current interrupting capability. These omissions constitute violations of Rule 61G15-33.003(2)(c), Fla. Admin. Code.

C. No surge protective devices are shown on the drawings. This omission constitutes a violation of Rule 61G15-33.003(2)(d), Fla. Admin. Code.

D. The drawings show no new panel no existing panel, no locations and no sizes, except for the addition of one 20-amp Arc-Fault Circuit Interrupter ("AFCI") breaker. The fact that a new or existing panel would have adequate physical space or electrical capacity to add one 20-amp breaker is not addressed. This deficiency constitutes a violation of Rule 61G-33.003(2)(e), Fla. Admin. Code.

E. The drawings contain no circuiting of loads added by this project, or existing circuiting; thus are deficient in circuiting of all outlets, equipment and devices. The drawings contain no requirements for grounding and bonding. These omissions constitute violations of Rule 61G15-33.003(2)(g) and (j), Fla. Admin. Code.

F. NEC 210.52(E)(1) requires for a one-family dwelling, at least one outdoor receptacle outlet . . . shall be installed at the front and back of the dwelling. The absence of such receptacle at the back of the Morales dwelling constitutes a violation of NEC 210.52(E)(1), Fla. Admin. Code.

G. The drawings do not contain information as required by the FBC. FBC-B Section 107.3.5 "Minimum plan review criteria for buildings" states in material part: The examination of the documents by the building official shall include the following minimum criteria and documents: Electrical; 1. Electrical wiring, services, feeders and branch circuits, grounding, wiring methods and materials; ...7. Load calculations." The omission of these FBC-B requirements constitutes a violation of Rule 61G15-003(2)(l), Fla. Admin. Code.

H. The drawings contain no information on the performance specifications and arrangements of the lighting fixtures, including those that are lighting kits on ceiling fans. These omissions constitute a violation of Rule 61G15-33.004(2)(a).

I. The drawings show no circuitry for any lighting fixture. This omission constitutes a violation of Rule 61G15-33.004(2)(d), Fla. Admin. Code.

J. The lighting design drawings contain 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.

26. Respondent's Mechanical Engineering Design (HVAC) Documents for the Morales Project are materially deficient in that the HVAC Scope of Work included a toilet exhaust fan for ventilation. No heat was specified and the exhaust fan size was omitted from the drawings. This omission is a violation of Rule 61G15-34.003, Fla. Admin. Code.

27. Respondent's Mechanical Engineering (Plumbing) Design Documents for the Bullock Project are materially deficient as follows:

A. The drawings contain no equipment schedules for all plumbing fixtures, water heater, valves, and accessories. These omissions constitute violations of Rule 61G15-34.007(2)(a) and (l), Fla. Admin. Code.

B. No potable water isometric diagrams are shown on the drawings. Total water fixture units are not shown on the drawings. The omission of potable water isometric diagrams and the omission of total water fixture units constitutes a violation of Rule 61G15-34.007(2)(c), Fla. Admin. Code.

C. An isometric sanitary riser diagram is shown on the drawings. Total flow waste fixture units are not shown on the drawings. The omission of the total waste fixture units constitutes a violation of FAC Rule 61G15-34.007(2)(d), Fla. Admin. Code.

D. No storm riser diagrams are shown on the drawings. No area drainage calculations are shown on the drawings. The omission of storm riser diagrams and area drainage calculations constitutes a violation of Rule 61G15-34.007(2)(e), Fla. Admin. Code.

E. The drawings contain no piping layouts for cold water, hot water, sanitary, or storm drainage. These omissions constitute a violation of FAC Rule 61G15-34.007(2)(f), Fla. Admin. Code.

F. The drawings acknowledge that the Florida Building Code – Plumbing (FBC-P) 2010 Edition is applicable to this project, but the drawings fail to list other applicable codes and standards. The omission of all applicable codes and standards violates Rule 61G15-34.007(2)(i), Fla. Admin. Code.

G. No materials for plumbing systems have been shown on the drawings. The absence of specifications for materials for plumbing systems constitutes a violation of Rule 61G15-34.007(2)(m), Fla. Admin. Code.

28. Respondent's Structural Engineering Design Documents for the Morales Project are materially deficient as follows:

A. The strength of materials for the concrete, reinforcing steel, grout and masonry are missing.

B. There is no reinforcing steel designated for the concrete piles.

C. The lap length of the reinforcing steel in the masonry walls is missing.

D. There is no detail indicating how the piling is connected to the pile cap.

E. On drawing S-2, Detail A/A2 indicates 6" x 6" x 16" CMU Block wall is an optional alternative, however this size block is structurally inadequate to resist the design wind pressures.

COUNT I

29. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Fifteen (15) and Sixteen (16) as if fully set forth in this Count One.

30. Respondent's Electrical Engineering Plans for the Betancourt Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Fifteen (15) and Sixteen (16). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Betancourt Project, and (2) the final engineering documents for the Betancourt.Project were not issued in compliance with acceptable engineering principles.

31. 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

32. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Thirteen (13), Fifteen (15) and Seventeen (17) as if fully set forth in this Count Two.

33. Respondent's Mechanical HVAC Engineering Plans for the Betancourt Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Thirteen (13), Fifteen (15) and Seventeen (17). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Betancourt Project, and (2) the final engineering documents for the Betancourt Project were not issued in compliance with acceptable engineering principles.

34. 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 III

35. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Fifteen (15) and Eighteen (18) as if fully set forth in this Count Three.

36. Respondent's structural engineering drawings for the Betancourt Project contain deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Nine (9), Fifteen (15) and Eighteen (18). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing structural 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 Betancourt Project, and (2) the final engineering documents for the Betancourt Project were not issued in compliance with acceptable engineering principles.

37. 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 IV

38. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Nineteen (19) and Twenty (20) as if fully set forth in this Count Four.

39. Respondent's Electrical Engineering Plans for the Bullock Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Nineteen (19) and Twenty (20). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Bullock Project, and (2) the final engineering documents for the Bullock Project were not issued in compliance with acceptable engineering principles.

40. 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 V

41. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Thirteen (13), Nineteen (19) and Twenty-One (21) as if fully set forth in this Count Five.

42. Respondent's Mechanical HVAC Engineering Plans for the Bullock Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Thirteen (13), Nineteen (19) and Twenty-One (21). As a result of those deficiencies,

Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Bullock Project, and (2) the final engineering documents for the Bullock Project were not issued in compliance with acceptable engineering principles.

43. 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 VI

44. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Fourteen (14), Nineteen (19) and Twenty-Two (22) as if fully set forth in this Count Six.

45. Respondent's Mechanical Plumbing Engineering Plans for the Bullock Project contain deficiencies including, but not limited to, those set forth in One (1) through Eight (8), Fourteen (14), Nineteen (19) and Twenty-Two (22) As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Bullock Project, and (2) the final engineering documents for the Bullock Project were not issued in compliance with acceptable engineering principles.

46. 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 VII

47. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Nineteen (19) and Twenty-Three (23) as if fully set forth in this Count Seven.

48. Respondent's structural engineering drawings for the Bullock Project contain deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Nine (9), Nineteen (19) and Twenty-Three (23). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing structural 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 Bullock Project, and (2) the final engineering documents for the Bullock Project were not issued in compliance with acceptable engineering principles.

49. 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 VIII

50. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Twenty-Four (24) and Twenty-Five (25) as if fully set forth in this Count Eight.

51. Respondent's Electrical Engineering Plans for the Morales Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Ten (10) through Twelve (12), Twenty-Four (24) and Twenty-Five (25). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Morales Project, and (2) the final engineering documents for the Morales Project were not issued in compliance with acceptable engineering principles.

52. 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 IX

53. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Thirteen (13), Twenty-Four (24) and Twenty-Six (26) as if fully set forth in this Count Nine.

54. Respondent's Mechanical HVAC Engineering Plans for the Morales Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Thirteen (13), Twenty-Four (24) and Twenty-Six (26). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Morales Project, and (2) the final engineering documents for the Morales Project were not issued in compliance with acceptable engineering principles.

55. 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 X

56. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Fourteen (14), Twenty-Four (24) and Twenty-Seven (27) as if fully set forth in this Count Ten.

57. Respondent's Mechanical Plumbing Engineering Plans for the Morales Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Fourteen (14), Twenty-Four (24) and Twenty-Seven (27). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing 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 Morales Project, and (2) the final engineering documents for the Morales Project were not issued in compliance with acceptable engineering principles.

58. 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 XI

59. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Twenty-Four (24) and Twenty-Eight (28) as if fully set forth in this Count Eleven.

60. Respondent's structural engineering drawings for the Morales Project contain deficiencies including; but not limited to, those set forth in Paragraphs One (1) through Nine (9), Twenty-Four (24) and Twenty-Eight (28). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Fla. Admin. Code, by signing and sealing structural 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 Morales Project, and (2) the final engineering documents for the Morales Project were not issued in compliance with acceptable engineering principles.

61. 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 15th day of September, 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: September 15, 2015
PCP Members: Fiorillo, Matthews & Pepper

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a correct copy of the foregoing filed *Administrative Complaint* was furnished to Respondent, Mr. John Holt, P.E., via U.S. Certified Mail and via U.S. First Class Mail, at his address of record with the Department of Business and Professional Regulation of 925 Azure Avenue, West Palm Beach, Florida 33414-8187 and to Respondent's attorney of record, Mr. Barry W. Taylor, Esquire, via U.S. Certified Mail, at Taylor & Taylor Law, P.O. Box 8338, Jupiter, Florida 33468 on the 15th day of September, 2015.

Trishia Finkey

Trishia Finkey, Paralegal