

FILED
Florida Engineers
Management Corporation
8/24/2016 Clerk: Rebecca Valentine

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date **8/24/2016**
File # **2016-06472**

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No: 2015018063

G. R. CLAIBORNE, P.E.,

Respondent,

_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 18, 2016 in Orlando, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between the parties in this cause. Upon consideration of the stipulation, the documents submitted in support thereof, and the arguments of the parties, it is hereby:

ORDERED AND ADJUDGED that the Settlement Stipulation as submitted be and is hereby adopted *in toto* and incorporated herein by reference. While permitted under the terms of the Stipulation, the Board did not exercise its discretion to impose any further disciplinary action other than that set forth in the Stipulation. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Stipulation.

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

DONE AND ORDERED this 22 day of August, 2016.


FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For WILLIAM C. BRACKEN, P.E., S.I., CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing filed *Final Order Adopting Settlement Stipulation* has been furnished by U.S. First Class Mail to G.R. Claiborne, P.E., at his Address of Record with the Department of Business and Professional Regulation of 2614 Canterbury Cir., Rockledge, Florida 3295, on this 24 day of August, 2016.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2015018063

G. R. CLAIBORNE, P.E.,

Respondent,
_____ /

SETTLEMENT STIPULATION

G. R. CLAIBORNE, P.E. ("Respondent") and the Florida Engineers Management Corporation ("FEMC") hereby stipulate and agree to the following Joint Settlement Stipulation ("Stipulation") and to entry of a Final Order of the Florida Board of Professional Engineers ("Board"), incorporating this Stipulation in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent, G. R. CLAIBORNE, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 58238
2. Respondent was charged with violations of Chapter 471, Florida Statutes, in an Administrative Complaint filed by the Florida Engineers Management Corporation, and properly served upon Respondent. True and correct copies of the filed Administrative Complaints are attached hereto and incorporated herein by reference as "Composite Exhibit A to Settlement Stipulation".

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**FLORIDA BOARD OF
PROFESSIONAL ENGINEERS**

Exhibit A

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in Respondent's capacities as a licensed professional engineer admits that, in such capacity, Respondent is subject to the provisions of Chapter 471, Florida Statutes, and the jurisdiction of the Department of Business and Professional Regulation ("Agency" or "Department"), FEMC, and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, constitute violations of Chapter 471, Florida Statutes, as alleged in the Complaint.

STIPULATED DISPOSITION OF LAW

1. Respondent shall, in the future, comply with Chapters 471 and 455, Florida Statutes, and the rules promulgated pursuant thereto.

2. Should Respondent fail to comply with the terms of the Final Order, an administrative complaint for failure to comply with final order will automatically be opened against Respondent.

3. Respondent's license shall be **SUSPENDED**, the suspension shall be **STAYED** for thirty (30) days and then **VACATED** if Respondent pays an **ADMINISTRATIVE FINE** of \$3,000.00 (\$1,000.00 per each of the 3 counts in the Complaint) and **COSTS** of \$2,344.05 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. Timely payment of the **FINE** and **COSTS** will result in the **SUSPENSION** never taking effect.

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

5. Respondent shall be placed on **PROBATION** for two (2) years from the date the Final Order adopting this Stipulation is filed with the Agency Clerk, with the following terms:

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

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

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

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

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

b. Respondent shall submit to the Board a detailed list of all completed projects (signed, sealed, and dated), by the Respondent for **PROJECT REVIEW** at six (6) and eighteen (18) month intervals from the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects shall include: **all projects and reports signed and sealed by Respondent.**

c. **A FEMC Consultant** will select two (2) projects from each submitted list for review. The Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultant. The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, rubber stamp seal. Sealed project review materials may be copied and submitted electronically, if desired by the Respondent. Respondent is also responsible for the Consultant's fees for reviewing the projects, and shall remit payment in the amount of \$1,500.00 by check or money order made payable in the name of the Board's Consultant at the time that the project lists are submitted to FEMC. In the event that the project review cost exceeds \$1,500.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$1,500.00, then the unused portion will be refunded to Respondent. Should the Consultant return an unfavorable report concerning Respondent's projects, that report shall be submitted to the Probable Cause Panel for determination of whether additional disciplinary proceedings should be initiated.

d. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 5.b., above, the initial or, if applicable, the subsequent submission required by the terms of probation shall be

extended for a period of six (6) months to allow Respondent to perform the services necessary for the required review. However, if, after the extension has expired, Respondent does not perform sufficient engineering services to meet the requirements of the terms of probation, Respondent's license will be placed on voluntary inactive status as defined in Section 455.227, Florida Statutes, by the Board, without any further necessity for action on the part of Respondent. Respondent's license shall remain on such status, provided Respondent meets the requirements of Section 455.227, unless and until Respondent notifies the Board that he wishes to recommence practice and obtains Board authorization to reactivate his license under such terms of probation that the Board deems appropriate at that time.

e. Should the FEMC Consultant return a favorable report after reviewing the plans submitted during the first year of probation, the requirements for the second year of probation may be waived and the probation may be terminated. A "favorable report" is herein defined as a report that, in the sole opinion of the Consultant with the concurrence of the Board, finds that the plans reviewed were considered to be free of any material deficiencies.

f. Should the Respondent fail to timely comply with the terms of the Final Order with regard to the Project Reviews discussed herein, this case will be submitted to the Probable Cause Panel for review and determination of whether additional disciplinary action should be taken.

g. Respondent shall successfully complete the STUDY GUIDE which has been prepared by the Board and which will be furnished to Respondent, regarding the Engineering Practice Act, Chapter 471, Florida Statutes, and the Rules of the Board.

Respondent is required to provide a personal email address that will be used to access the on-line study guide. The study guide must be completed within thirty (30) days of the date on which the Final Order incorporating this Stipulation is filed with the Agency Clerk.

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

7. Respondent acknowledges that neither Respondent's attendance at the Board Meeting when this Stipulation is presented, nor any continuing education or college level courses taken as a requirement of the terms of this Stipulation may be used to comply with the continuing education requirements of Chapter 61G15-22, Florida Administrative Code.

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

9. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of this Stipulation. Furthermore, should this Stipulation not be accepted by the Board, it is agreed that presentation to and by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

10. Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or otherwise challenge or contest the validity of the joint Stipulated Facts, Conclusions of Law, imposition of discipline, and the Final Order of the Board incorporating this Stipulation.

11. Respondent waives the right to seek any attorney's fees or costs from the Board in connection with this disciplinary proceeding.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

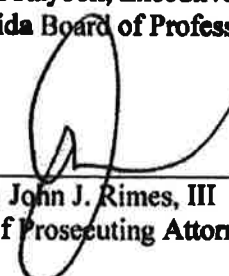


G. R. Claiborne, P.E.,
Respondent
Case No. 2015018063

Dated: 4/13/16

APPROVED this 28 day of April, 2016.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	3/18/2016
File #	

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.
G. R. CLAIBORNE, P.E.,

FEMC Case No. 2015018063

Respondent,
_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Engineers Management Corporation (FEMC) on behalf of Petitioner, Florida Board of Professional Engineers, hereinafter referred to as "Petitioner," and files this Administrative Complaint against G. R. CLAIBORNE, P.E., hereinafter referred to as "Respondent." This Administrative Complaint is issued pursuant to Sections 120.60 and 471.038, Florida Statutes. Any proceeding concerning this complaint shall be conducted pursuant to Section 120.57, Florida Statutes. In support of this complaint, Petitioner alleges the following:

1. Petitioner, Florida Board of Professional Engineers, is charged with regulating the practice of engineering pursuant to Chapter 455, Florida Statutes. This complaint is filed by the Florida Engineers Management Corporation (FEMC) on behalf of Petitioner. FEMC is charged with providing administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers pursuant to Section 471.038, Florida Statutes (1997).

2. 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 58238. Respondent's last known address is FP Engineering, 2614 Canterbury Circle, Rockledge, Florida 32953.

3. Section 471.033(1)(g), Florida Statutes, provides that an engineer is subject to discipline for engaging in negligence in the practice of engineering. Rule 61G15-19.001(4), Fla. Admin Code, provides that negligence constitutes "failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles." Rule 61G15-19.001(4) also provides that "[f]ailure to comply with the procedures set forth in the Responsibility Rules as adopted by the Board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures there from are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer."

4. The Board has adopted Responsibility Rules of Professional Engineers (Responsibility Rules). These Rules are contained in Chapter 61G15-30 to Chapter 61G15-36, Fla. Administrative Code. Professional Engineers who perform services covered by the Responsibility Rules are required to comply with the Rules. Included in the Responsibility Rules are Rules governing Fire Protection (Rule 61G15-32) Engineering Documents produced by a Professional Engineer.

5. On April 3, 2015 Respondent signed, sealed and dated a set of Fire Protection System Engineering Design Drawings for a fire alarm plan to be located at 1075 Florida Central Parkway, Suite 200, Longwood, Florida (Combat City Project).

6. Respondent acted as Fire Protection Engineer of Record for the Combat City Project as that term is defined in Rule 61G15-30.002(1), F. A. C. As such, all engineering

documents prepared, signed, sealed and dated by Respondent must contain the information set out in Rule 61G15-30.003(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, 61G15-32, 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[FBC], adopted in Section 553.73, F.S., and applicable laws, ordinances, rules and regulations, as determined by the Agency Having Jurisdiction. 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.

7. 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....”

8. Rule 61G15-32.008(2), (4) and (5) “Design of Fire Alarms and Detection Systems,” provides in material part that:

“(2) The design specifications shall be based on the Florida Building Code (2007), the Florida Fire Prevention Code, or as required by the local authority having jurisdiction.

* * *

(4) (a) The plans shall be clear, with a symbols legend, system riser diagram showing all initiation and notification components, and cabling requirements. Indicate locations where fire ratings are required as determined by the system’s survivability requirements. Identify the general occupancy of the protected property, and for each room and area unless it is clear from features shown.

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity. Related systems include elevator controls smoke control systems, dampers, and doors.

* * *

(5) In the event that the Engineer of Record elects to specify specific equipment and to show the required wiring, battery and voltage drop (circuit analysis) calculations shall be completed. The calculations shall be completed using the equipment manufacture’s data and applicable NFPA 72 procedures.

9. Respondent’s Combat City Project Fire Protection System Engineering Design Drawings are materially deficient as follows:

(a) Although there were air-handling units greater than tons (2,000 cfm), duct detectors were not provided. This omission violates Rule 61G15-32.008(2).

(b) The location of the strobes does not provide full coverage e.g., training rooms. This violates Rule 61G15-32.008 (2).

(c) Although this is a sprinklered building, no sprinkler flow or tamper are connected to the fire alarm system. This violates Rule 61G15-32.008 (2).

(d) The riser diagram does not correctly reflect all the initiation and notification devices in the fire alarm system and the intensity of the strobes were not provided. This violates Rule 61G15-32.008(4)(a).

(e) The Class and Style of circuits were not provided. This omission violates 61G15-32.008(4)(b).

(f) Battery calculations were not provided. This omission violates Rule 61G15-32.008(5).

(g) The notes on the fire alarm drawing about sprinkler piping do not relate to the new fire alarm system. This violates Rule 61G15-32.008(4)(a).

10. Subsequent to Respondent's issuance of the Combat City Project drawings described above, the drawings were submitted for review to the local Fire Marshall. After that submission, Kevin Joyner, an official at VSC Fire & Safety, Inc., the firm whose employee drafted the Combat City Project drawings which Respondent sealed and signed, sent an email to the Fire Marshall stating in material part:

Regrettably, our first submittal [the drawings described in Paragraph Five (5) herein] was nothing short of a complete mess.

It was ill managed, and designed by a person without the knowledge necessary to do so accurately, that was my mistake.

* * *

The permit application that we sent to you has the fire sprinkler license holder shown Samuel Logue, Sam was used on the fire alarm permit application because at the time I thought he held both licenses. We now know that not to be the case. I truly apologize for this mistake!

I will be submitting a whole new set of plans, calc's, applications, and licenses.

The new submittal will be a much better representation of what we are capable of here at VSC Fire & Security.

11. Section 471.033(1) (j), Florida Statutes, states as follows: "(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (j)

Affixing or permitting to be affixed his or her seal, name, or digital signature to any final drawings, specifications, plans, reports, or documents that were not prepared by him or her or

under his or her responsible supervision, direction, or control.” The standard to be applied to determine whether a Professional Engineer is in “responsible supervision, direction, or control” is set out in Rule 61G15-18.011(1) and requires in material part that the PE must: “...have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.” By sealing, signing and dating and then issuing for public record, the April 3, 2015 Combat City Project Fire Protection System Engineering Design Drawings, Respondent sealed documents that were created by a “person without the knowledge to [perform the design].” As a result, Respondent was not in “responsible supervision, direction, or control” of the Combat City Project Fire Protection System Engineering Design Drawings.

12. Section 471.033(1)(a), Florida Statutes, states as follows: (1)[t]he following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) [v]iolating any provision of ..., s. 471.025, ..., or any other provision of [a] ... rule of the [B]oard” Rule 61G15-23.002(3)(b) (April 2015) provides in material part as follows: “If the engineer sealing, signing and dating engineering plans or prints is practicing through a duly authorized engineering business, the title block required by [Rule 61G15-23.002(2)(a)] shall contain the name, address and certificate of authorization number of the engineering business.”

13. The title block on Combat City Project Fire Protection System Engineering Design Drawings does not contain the firm name, address, or certificate of authorization number of Respondent’s engineering firm, FP Engineering, on behalf of which entity Respondent sealed, signed and dated the Drawings.

COUNT I

14. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9) as if fully set forth in this Count One.

15. Respondent's Combat City Project Fire Protection System Engineering Design Drawings contain deficiencies including, but not limited to, those set forth in Paragraphs Eight (8) and Nine (9). Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., 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 Combat City Project and (2) the final engineering documents for the Combat City Project were not issued in compliance with acceptable engineering principles.

16. 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

17. Petitioner realleges and incorporates Paragraphs One (1) through Eleven (11) as if fully set forth in this Count Two.

18. Section 471.033(1)(j), Florida Statutes, provides that an engineer is subject to discipline for "[a]ffixing or permitting to be affixed his or her seal, name, or digital signature to any final drawings, specifications, plans, reports, or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control." By sealing, signing and dating and then issuing for public record, the April 3, 2015 Combat City Project Fire Protection System Engineering Design Drawings, Respondent, for the reasons set out in Paragraph Ten (10) herein was not in "responsible supervision, direction, or control" of the Combat City Project Fire Protection System Engineering Design Drawings.

19. Based upon the foregoing, Respondent violated the provisions of Section 471.033(1)(j), Florida Statutes, by sealing, signing and dating final engineering drawings that were "...not prepared by him ... or under his ... responsible supervision, direction, or control."

COUNT III

20. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Twelve (12) and Thirteen (13) as if fully set forth in this Count Three.

21. By sealing, signing and dating the Combat City Project Fire Protection System Engineering Design Drawings when the title block on Combat City Project Fire Protection System Engineering Design Drawings did not contain the firm name, address, or certificate of authorization number of Respondent's engineering firm, FP Engineering, on behalf of which entity Respondent sealed, signed and dated the Drawings, Respondent violated Section 471.033(1)(a) and Rule 61G15-23.002(3)(b) (April 2015).

22. Based upon the foregoing, Respondent violated the provisions of Section 471.033(1)(a) and Rule 61G15-23.002(3)(b) (April 2015) by sealing, signing and dating final engineering drawings that did not include required information in the title block found on the Combat City Project Fire Protection System Engineering Design Drawings.

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 10th day of March, 2016.

Zana Raybon
Executive Director


BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303
Florida Bar No. 212008
JR/rv
PCP DATE: March 08, 2016
PCP Members: Fiorillo, Fleming, & Matthews

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to G.R. Claiborne, P.E. at 2614 Canterbury Cir., Rockledge, Florida 32955, by certified mail and First Class U.S. Mail, on the _____ of _____, 2016.

Rebecca Valentine, Paralegal