

**FILED**  
Florida Engineers  
Management Corporation  
2/21/2017 Clerk: Rebecca Valentine

**FILED**  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK Brandon Nichols  
Date **2/21/2017**  
File # **2017-01379**

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

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC CASE NO.: 2015-047628

SINKHOLES, LLC

Respondent.

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**FINAL ORDER**

THIS CAUSE came before the Florida Board of Professional Engineers (hereinafter "the Board") pursuant to Sections 120.569 and 120.57(2), Florida Statutes, at a duly noticed public meeting on February 2, 2017, in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by John J. Rimes, Chief Prosecuting Attorney. Respondent was not present and was not represented by legal counsel.

**RULING ON MOTION TO DEEM ADMITTED PETITIONER'S  
FIRST REQUEST FOR ADMISSIONS TO RESPONDENT.**

Petitioner Served First Request for Admissions to Respondent on November 16, 2016. Respondent failed to respond to the Request for Admissions, and on January 9, 2017, Petitioner filed a Motion to Deem Admitted Petitioner's First Request for Admissions to Respondent. Respondent likewise failed to respond to this Motion.

Pursuant to Rule 1.370, Florida Rules of Civil Procedure, Requests for Admissions not answered within thirty (30) days of service are deemed admitted. Accordingly,

Respondent's Motion To Deem Admitted Petitioner's First Request for Admissions to Respondent is **GRANTED**.

### **FINDINGS OF FACT**

1. The Administrative Complaint was properly served on Respondent via personal service.
2. Respondent requested a hearing not involving disputed issues of material fact pursuant to section 120.57(2), F.S.
3. The investigative file provided and admitted into evidence establishes the facts alleged in the Administrative Complaint.
4. The facts set forth in Petitioner's First Request for Admissions To Respondent and the facts set forth in the Administrative Complaint are hereby adopted and incorporated by reference as the facts of this case.

### **CONCLUSIONS OF LAW**

5. The admitted facts constitute the violations set forth in the Administrative Complaint, which are adopted and incorporated by reference as the conclusions of law in this case and for which the Board may impose discipline.

**THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:**

1. Respondent is **FINED** five thousand dollars (\$5,000), which shall be paid within one (1) year.
  2. Respondent shall pay **COSTS** in the amount of \$107.25 within one (1) year.
- This Final Order shall take effect upon being filed with the Clerk of the Department

of Business and Professional Regulation.

**DONE AND ORDERED** this 21 day of February, 2017.

**BOARD OF PROFESSIONAL ENGINEERS**

  
\_\_\_\_\_  
Zana Raybon, Executive Director  
for Anthony Fiorillo, 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 **Sinkholes, LLC**, c/o Jeff J. Earl, 4511 North Himes Avenue, Suite 200, Tampa, Florida 33614; 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 22 day of February, 2017.

  
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FILED  
Florida Engineers  
Management Corporation  
7/29/2016 Clerk: Rebecca Valentine

FILED  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK Evelle Lawson-Proctor  
Date 7/29/2016  
File #

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.  
SINKHOLES, LLC,

FEMC Case No. 2015047628

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 SINKHOLES, LLC, 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, SINKHOLES, LLC, is a Florida limited liability company whose last known address is 4511 North Himes Ave, Suite 200, Tampa Florida 33614.

3. Respondent does not possess and has never been issued a Certificate of Authorization (CA) by the Board as is required under the provisions of Section 471.023(1), Florida Statutes for a business organization to practice or offer to practice engineering in Florida.

4. Chapter 471.023 (1), Florida Statutes, provides in material part that

[t]he practice of, or the offer to practice, engineering by licensees or offering engineering services to the public through a business organization, including a partnership, corporation, business trust, or other legal entity or by a business organization, including a corporation, partnership, business trust, or other legal entity offering such services to the public through licensees under this chapter as agents, employees, officers, or partners is permitted only if the business organization possesses a certification issued by the management corporation pursuant to qualification by the board.

5. Chapter 471.031(1), Florida Statutes, provides in material part that:

(1) A person may not:

(a) Practice engineering unless the person is licensed or exempt from licensure under this chapter.

(b) 1. ... use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "... civil engineer, ...

6. The practice of engineering is defined in Chapter 471.005(7), Florida Statutes, to include in material part:

... any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, ... of engineering works and systems, ... any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, ... insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning,

progress, and completion of any engineering services. A person who practices any branch of engineering; ... who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of [Chapter 471].

7. Chapter 471.033(1)(a), Florida Statutes, provides in material part: "(1)The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a)[v]iolating any provision of ... s. 471.031."

8. On the website for Respondent, <http://sinkholesllc.com>, are found the following statements among other similar statements:

- A. "Our experts Civil Engineer Ken Sands, P.E.;"
- B. "Sinkholes LLC can provide you with the Geo Engineer or Civil Engineer for Sinkhole testing."
- C. "Sinkholes, LLC can also provide you with the best Foundation Repair Contractor and the only Civil Engineering Foundation repair Company in the state of Florida".

9. Insofar as Respondent does not hold a Certificate of Authorization, a Notice to Cease & Desist as provided in Section 455.228(1), Florida Statutes, was prepared and mailed to Respondent on November 2, 2015. When no response or meaningful corrective action was forthcoming, additional efforts to obtain compliance was attempted by emails to Respondent from FEMC on March 24, 2016. No response has been received and Respondent's website has not been altered.

10. Section 455.228(1), Florida Statutes, provides in material part:

(1) When the [Department of Business and Professional Regulation] has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice

of a profession regulated by the department, or any rule adopted pursuant thereto, ... the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 ....”

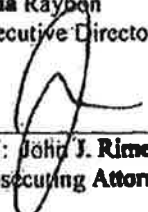
11. Section 471.038(5), Florida Statutes, provides in material part: “[n]otwithstanding ss. 455.228 and 455.2281, the duties and authority of the department to receive complaints and to investigate and deter the unlicensed practice of engineering are delegated to the [Board of Professional Engineers].” As a result, the Board is authorized to impose the administrative penalty described in Paragraph 9.

12. In light of the foregoing, the work offered to be performed and the statements made by Respondent on its website constitutes the offering to practice and the practice of engineering as defined in Chapter 471.005(7), Florida Statutes. As such, the offering and provision of the services described in Paragraph 9 by Respondent represents the unlawful practice of engineering by Respondent, a business entity that does not possess a Certificate of Authorization, in violation of Chapters 455.228(1), 471.031(1)(a), and 471.038(5), Florida Statutes.

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 29 day of July, 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: July 19, 2016

PCP Members: FIORILLO, MATTHEWS & FLEMING

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was furnished to Sinkholes, LLC at 4511 North Himes Ave, Suite 200, Tampa, Florida 33614, by certified mail and First Class U. S. Mail, on the 29 of July, 2016.

  
Rebecca Valentine  
Rebecca Valentine, Paralegal