

FILED
Florida Engineers
Management Corporation
4/19/2018 Clerk: Rebecca Valentine

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 4/19/2018
File # 2018-02847

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2016039268

CHA COMPANIES OF NEW YORK,

Respondent,
_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

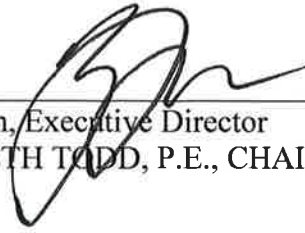
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 05, 2018 in Orlando, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between 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. 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 18 day of April, 2018.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For KENNETH TODD, P.E., 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 CHA Companies of New York, by service upon his attorney of record: Nikki C. Dames, Esquire, Regional Counsel for CHA Companies of New York, 111 Winners Circle, Albany, New York 12205-0269 this 20 day of April, 2018.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.
CHA COMPANIES OF NEW YORK,

FEMC Case No. 2016039268

Respondent,
_____ /

SETTLEMENT STIPULATION

CHA COMPANIES OF NEW YORK ("Respondent") and the Florida Engineers Management Corporation ("FEMC") hereby stipulate and agree to the following joint Settlement Stipulation ("Stipulation") and 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, CHA COMPANIES OF NEW YORK, does have and has had a Certificate of Authorization in the State of Florida, having been issued certificate of authorization number CA 28386.

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".

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in Respondent's capacity as a citizen of the State of Florida, admits that in such capacity Respondent is subject to provisions of Chapters 455 and 471, Florida Statutes, and

the jurisdiction of the Florida Department of Business and Professional Regulation ("the Agency), FEMC, and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, constitute violations of Chapters 455 and 471, Florida Statutes, as alleged in the Administrative 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 the Final Order will automatically be opened against Respondent

3. Respondent shall pay an ADMINISTRATIVE FINE of \$1,000.00 and ADMINISTRATIVE COSTS of \$247.65 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

4. A Designated Officer of 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.

5. Respondent shall cease and desist from offering engineering services without the professional engineering license or certification of authorization required by Florida law, specifically Chapter 471, Florida Statutes, as set forth in the Administrative Complaint.

6. 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.

7. 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.

8. 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.

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

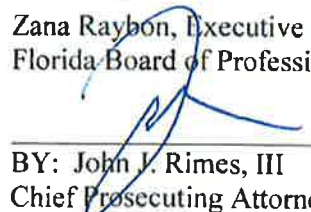
WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

By: 
Representative for Respondent
Case No. 2016039268

Dated: January 15, 2018

APPROVED this 16 day of January, 2018

Zana Raybon, Executive Director
Florida Board of Professional Engineers


BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers
Management Corporation
11/28/2017 Clerk: Rebecca Valentine

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FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	11/28/2017
File #	

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2016039268

CHA COMPANIES OF NEW YORK,

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 CHA COMPANIES OF NEW YORK, 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 engineering firm in the State of Florida, having been issued Certificate of Authorization Number 28386 (CA). Respondent's last known address is 111 Winners Circle, Albany, New York 12205-0269.

3. Section 471.023(1), Florida Statutes, requires that, in order to obtain, possess and maintain a Certificate of Authorization to practice and offer engineering services through a corporation, a business entity, such as Respondent, must assure that “[o]ne or more of the principal officers of the business organization...shall be licensed [as a Professional Engineer].” Section 471.023(4), Florida Statutes, requires that “[e]ach business organization certified under this section must notify the board within 1 month after any change in the information contained in the application upon which the certification is based.” Lastly, Section 471.023(5), Florida Statutes, provides that “[d]isciplinary action against a business organization shall be administered in the same manner and on the same grounds as disciplinary action against a licensed engineer.”

4. Section 455.227(1)(k), Florida Statutes, provides as follows: “(1)The following acts shall constitute grounds for which the disciplinary actions ... may be taken: (k)Failing to perform any statutory or legal obligation placed upon a licensee.” Section 471.033(1)(a), Florida Statutes, provides as follows: “(1)The following acts constitute grounds for which the disciplinary actions ... may be taken: (a)Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, or any other provision of this chapter or rule of the board or department.”

5. On January 28, 2016 Respondent sent the Board an application (Application) to change the information upon which the CA was based. The change was due to the fact that the Professional Engineer who had previously acted as Respondent’s engineering principal officer (P. O.) was no longer acting as such. As a result, a new PE was listed in the Application as Respondent’s new P. O.

6. However, the PE listed by Respondent in the Application as the new P. O. was never listed as a principal officer at the Florida Secretary of State’s website and no corporate resolution as required by Rule 61G15-18.011(5) was ever received by the Board. Despite several notices of the incomplete nature of Respondent’s Application being sent to Respondent, no updated information was ever received by the Board. As a result, the Application was incomplete for over 6 months and

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was ultimately deemed withdrawn as a result of Respondent's inaction. Therefore from at least January 2016 Respondent had no PE acting as P. O. on file with the Board.

7. In August 2016 FEMC made several efforts to contact Respondent regarding the fact that, due to the failure of Respondent to complete the Application, Respondent was not in compliance with the provisions of Section 471.023, Florida Statutes. Notwithstanding the fact that Respondent was placed on notice of Respondent's obligation to identify a new PE as Respondent's P. O., no PE was identified as the new P. O. until February 16, 2017. Therefore Respondent failed to notify the Board of the change of the information upon which the CA was based for Thirteen (13) months or portions thereof (January 2016-February 2017).

8. As provided in Section 471.023(4), Florida Statutes, Respondent was required to notify the Board of the change of status of Respondent's Professional Engineer who acted as a "principal officer[] of the business organization" within one month. Additionally, Respondent was required to enter into an arrangement with another professional engineer who would replace the previous PE as a "principal officer[] of the business organization" in order to continue offering engineering services in compliance with Chapter 471. Respondent was then required to update the information on file with the Board to provide the identity of and the acquiescence of a new professional engineer who would act as a "principal officer[] of the [Respondent]" in order to assure that Respondent's Certificate of Authorization was in compliance with the requirements of Chapter 471. While Respondent has continued to offer engineering services from January 2016 until February 2017, Respondent did none of the required acts set forth herein.

9. Respondent, as set forth in Paragraphs Two (2) to Eight (8) above, has failed to comply with the requirements of Section 471.023, Florida Statutes, by

A. Practicing as an engineering firm without a professional engineer acting as a "principal officer[] of the business organization" at least for the period from January 2016 until February 2017.

B. Practicing as an engineering firm without updating the firm's information with the Board at least for the period from January 2016 until February 2017.

10. Based upon the foregoing, Respondent has violated Section 455.227(1)(k), Florida Statutes, and Section 471.033(1)(a), 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 17 day of November, 2017.

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: November 07, 2017

PCP Members: FLEMING, BRACKEN & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to CHA Companies of New York, by service upon his attorney of record: Nikki C. Dames, Esquire, Regional Counsel for CHA Companies of New York, 111 Winners Circle, Albany, New York 12205-0269, by certified mail and First Class U. S. Mail, on the 28 of November, 2017.


Rebecca Valentine, Paralegal