

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 # 2018-02846

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017002868

ROBERT E. GELHARDT, II, P.E.

Respondent,
_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION


THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 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.

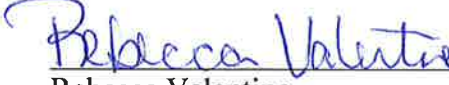
FLORIDA BOARD OF PROFESSIONAL ENGINEERS



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 Robert E. Gelhardt, P.E, 2605 Lotus Drive, Tallahassee, Florida 32312 (his address of record with the Department of Business and Professional Regulation) this 20 day of April, 2018.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS

Petitioner,

v.
ROBERT E. GELHARDT, P.E.

FEMC Case No: 2017002868

Respondent,
_____ /

SETTLEMENT STIPULATION

ROBERT E. GELHARDT, P.E. ("Respondent") and the Florida Board of Professional Engineers ("Board") by and through the Florida Engineers Management Corporation ("FEMC"), hereby stipulate and agree to the following joint stipulation and Final Order of the Board, incorporating this Stipulation in the above-styled manner.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed engineer in the State of Florida, having been issued license number PE 77568.
2. Respondent was charged by an Administrative Complaint ("Compliant") filed by FEMC, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. A true and correct copy of the filed Administrative Complaint is attached hereto and incorporated by reference as "Exhibit A to Settlement Stipulation".

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed engineer, admits that in such capacity he is subject to provisions of Chapters 455 and 471, Florida Statutes, and the jurisdiction of the Department of Business and Professional Regulations ("Agency"), FEMC, and the Board.

2. Respondent admits that the facts set forth in the Complaint, if proven, constitute violations of Chapters 455 and 471, Florida Statutes, as alleged in the Complaint.

STIPULATED DISPOSITION OF LAW

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

2. Should Respondent fail to 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 shall pay an ADMINISTRATIVE FINE of \$1,000.00 and COSTS of \$2,763.25 to the Board thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

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

5. Respondent 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.

6. 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 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.

c. 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 the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects shall include: **all fire protection engineering projects and reports signed and sealed by Respondent.**

d. **A FEMC Consultant** will select two (2) projects from each submitted list for review. **Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultants.** The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, 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 \$2,000.00 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 \$2,000.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$2,000.00, 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.

e. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 6c., 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.

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.

8. 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.

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

10. 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 the Stipulation. Furthermore, should this joint 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.

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

12. 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.

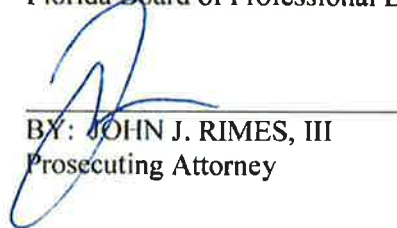


Signature
Robert E. Gelhardt, P.E.
Respondent
Case No. 2017002868

Dated: 2018-02-06

APPROVED this 06 day of FEBRUARY, 2018.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: JOHN J. RIMES, III
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	1/22/2018
File #	

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.
ROBERT E. GELHARDT, II, P.E.
RESPONDENT,

FEMC Case No. 2017002868

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Management Corporation
01/22/2018 Clerk: Rebecca Valentine

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 ROBERT E. GELHARDT, II, 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 77568. Respondent's last known address is 2605 Lotus Drive, Tallahassee, Florida 32312.

3. On or about December 17, 2015 sealed, signed and dated several fire sprinkler design documents for the Klausner Saw Mill, in Live Oak, Florida (Klausner Project). The overall project included the installation of new underground private fire services mains throughout the property to the various buildings. Fire hydrants were to be connected to the underground fire service mains at various locations around the buildings.

4. 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.

5. 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.”

6. Rule 61G15-19.001(4), Fla. Admin. Code, 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 therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer.”

7. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for all engineering work delineated in Paragraphs Eleven (11) and Twelve (12), 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.

8. Respondent acted as the Fire Protection Design Engineer of Record for the (Klausner Saw Mill) as that term is defined in Rules 61G15-30.002(1) and 61G15-32.002(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):

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 ...61G15-32, ...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.

9. Rule 61G15-32.003(2) and (4) provide in material part: “Common Requirements to All Fire Protection Engineering Documents. (2) The Fire Protection System Engineering Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available. (4) The applicable code and standard to be used in the preparation of the Fire Protection System Layout Documents shall be shown on the Fire Protection System Engineering Documents. When codes and standards are not available or applicable, and said layout documents are to be based on engineering judgment, any reasons and assumptions made to develop the fire protection concept shall be identified on the Fire Protection System Engineering Documents.”

10. Rule 61G15-32.004(2)(a) Design of Water Based Fire Protection Systems, provides in material part: “(2) To ensure minimum design quality in Fire Protection System Engineering Documents, said documents shall include as a minimum the following information when applicable: (a) The Point of Service for the fire protection water supply as defined by Section 633.021(18), F.S.”

11. Respondent’s Fire Protection Design Documents for the Klausner Project are materially deficient as follows:

A. The water supply included in Respondent’s design does not meet the requirements of NFPA 13.

B. The hydraulic calculations are not properly prepared and therefore the fire sprinkler design does not comply with NFPA 13.

C. The requirements for testing and inspection of the fire sprinkler systems, usually NFPA 25, are not included in the drawings. These deficiencies constitute a violation of Rule 61G15-32.003(2)

D. The edition of NFPA 13 is not indicated on the drawings. This deficiency constitutes a violation of Rule 61G15-32.003(4).

E. The Point of Service is not indicated on the drawings. This deficiency constitutes a violation of Rule 61G15-32.004(2)(a).

12. Respondent's Fire Protection Design engineering drawings for the Klausner Project contain deficiencies including; but not limited to, those set forth in Paragraph Eleven (11). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by sealing and signing Fire Protection Design 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 Klausner Project and (2) the final engineering documents for the Klausner Project were not issued in compliance with acceptable engineering principles.


13. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by being negligent 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 22 day of January, 2018.

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: January 10, 2018
PCP Members: FLEMING, BRACKEN & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Robert E. Gelherdt, P.E, 2605 Lotus Drive, Tallahassee, Florida 32312, by certified mail and First Class U. S. Mail, on the 23 of January, 2018.


Rebecca Valentine, Paralegal