STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

v.

STEPHEN E. KASTNER, P.E.,

Respondent,

FEMC Case Nos. 2016013495
2016028548

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 08, 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 13th day of August, 2018.
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 Stephen E. Kastner, P.E. by service upon his attorney of record: Edwin A. Bayó, Esquire, Grossman, Furlow & Bayó, I,L.C, 2022-2 Raymond Diehl Road, Tallahassee, Florida 32308, this 27th day of August, 2018.

Rebecca Valentine,
Paralegal
STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v.

STEPHEN E. KASTNER, P.E.,

Respondent,

FEMC Case Nos. 2016013495,
2016028548

SETTLEMENT STIPULATION

STEPHEN E. KASTNER, 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, STEPHEN E. KASTNER, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 39528.

2. Respondent was charged with violations of Chapter 471, Florida Statutes, in two Administrative Complaints filed by the Florida Engineers Management Corporation in FEMC Case Nos. 2016013495, and 2016028548, 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 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 Complaints, 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 shall pay an **ADMINISTRATIVE FINE** of $2,000.00 and **COSTS** of $753.60 to the Board within One (1) Year of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

4. 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 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 completed mechanical, electrical, plumbing (MEP) and fire protection engineering projects and reports signed and sealed by Respondent.** This list must include mechanical, electrical, plumbing (MEP)
and fire protection engineering disciplines which do not necessarily need all to appear in the same projects, but all three disciplines must be available for review.

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. 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 5c., 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 for the reviews required by the terms of probation to be accomplished, Respondent's license will be RESTRICTED and he shall be precluded from practicing electrical, mechanical, and fire protection engineering by the Board.
without any further necessity for action on the part of Respondent. If Respondent is able to provide reviewable projects in some but not all of the disciplines for which reviews are required, the Restriction(s) shall only apply to those engineering disciplines for which plans for review have not been submitted to the Board. Respondent's license shall remain under such restriction until Respondent notifies the Board that Respondent wishes to recommence practice in these disciplines and obtains Board authorization, under such terms of probation that the Board deems appropriate at that time which may include reviews under the same terms as set out in Paragraph 5. d.

f. 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.

g. 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.

6. 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.

7. 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.
8. 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.

9. 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.

10. 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]
Stephen E. Kastner, P.E.,
Respondent
Case No. 2016028548

Dated: MAY 08 2018

[Signature]
Zana Raybon, Executive Director
Florida Board of Professional Engineers

APPROVED this 31 day of May, 2017.

[Signature]
BY: John J. Rimes, III
Chief Prosecuting Attorney
FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

v.

STEPHEN E. KASTNER, P.E.,

Respondent,

FEMC Case Nos. 2016013495

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 STEPHEN E. KASTNER, 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 39528. Respondent’s last known address is 5320 Florida Palm Avenue, Cocoa, Florida 32937.
3. On June 14, 2016 Respondent signed, sealed and dated Electrical and Mechanical Engineering plans for a proposed remodel of an existing retail store into an oyster bar and restaurant at 7 Minuteman Causeway (located in the Seaside Mall), Cocoa Beach, FL (Oyster Bar Project).

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 “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.”

5. 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 Electrical (Rule Chapter 61G15-33) and Mechanical (Rule Chapter 61G15-34) Engineering Documents produced by a Professional Engineer.

6. Respondent acted as Electrical and Mechanical Engineer of Record for the Oyster Bar 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), F. A. C.:
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 61G15-33 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 FBC (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. 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 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: 1. Electrical: Wiring, Services, Feeders and branch circuits, Overcurrent protection, Grounding, Wiring methods and Materials. 2. Equipment... 4. Emergency systems... 7. Load calculations.”

9. 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 5. Make-up air... 9. Combustion air.”


11. Rule 61G15-33.001 “Responsibility Rules of Professional Engineers Concerning the Design of Electrical Systems” “General Responsibility” states in material part that: “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 . . . .”

12. Rule 61G15-33.003(2) “Design of Power Systems,” requires in material part that “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; (i) Electrical Legends; (j) Grounding and bonding; . . . (l) Record documents applicable to power systems shall, at a minimum, contain information as required by Florida Building Code.”

13. Rule 61G15-33.004(2) “Design of Lighting Systems”, requires in material part that “Electrical Engineering Documents applicable to the design of lighting systems shall, at a minimum, indicate the following: (a) Lighting fixture performance specifications and arrangements; (b) Emergency Lighting, egress and exit lighting; . . . (d) Lighting control and circuiting; (e) Calculated values to demonstrate compliance with the Florida Energy Code for Building Construction.”

14. 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 . . . and states that construction documents shall “. . . define the required mechanical systems, including plumbing components, processes, equipment and material . . .”

15. Rule 61G15-34.003(4)(d) “Design of Heating, Ventilation and Air Conditioning (HVAC) Systems,” requires that Mechanical Engineering Documents pertaining to HVAC systems . . . shall indicate the following: Outside (fresh) air make-up conditions.

16. Rule 61G15-34.007(2) “Design of Plumbing Systems,” requires in material part that 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; . . . (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 [American Society of Heating, Refrigerating, and Air Conditioning Engineers], ASME [American Society of Mechanical Engineers], ASPE [American Society of Plumbing Engineers], ANSI [American National Standards Institute] and other applicable codes, design standards and requirements; . . . (m) Material for all plumbing systems shall be specified.”

ELECTRICAL DOCUMENTS

17. Respondent’s Electrical Engineering Design Documents for the Oyster Bar Project Project are materially deficient as follows:
(a) The electrical drawing does not contain an Electrical Riser Diagram, contains 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).

(b) The electrical drawing contains no conductor ampacities, no insulation types, no circuit interrupting devices, no specification regarding fault current interrupting capability, and no circuitry for outlets, equipment, devices, and lighting. The absence of conductor ampacities, insulation types, circuit interrupting devices, no fault current interrupting capability, and no circuitry for outlets, devices or lighting constitutes violations of Rule 61G15-33.003(2)(b),(c) and (g), and Rule 61G15-33.004(2)(d).

(c) No surge protective devices are shown on the drawing. This constitutes a violation of Rule 61G15-33.003(2)(d).

(d) The electrical drawing shows two electrical panel locations (one inside the Women’s toilet stall), but no panel schedule, no Main and distribution equipment and sizes. The absence of electrical main and distribution equipment constitutes a violation of Rule 61G15-33.004(2)(e).

(e) No load computations are shown on the electrical drawing. The absence of electrical load computations constitutes a violation of Rule 61G15-33.003(2)(h).

(f) No electrical legends are shown on the electrical drawing. The absence of an electrical legend constitutes a violation of Rule 61G15-33.003(2)(i).

(g) No grounding is shown on the electrical drawing. The absence of grounding requirements constitutes a violation of Rule 61G15-33.003(2)(j).
(h) The drawing does not include all information as required by the Florida Building Code. The Electrical drawing contains no Electrical Riser Diagram, no load calculations, wiring sizes, insulation types, circuiting, no overcurrent protective devices, no grounding requirements, no specifications of wiring methods and materials, and incomplete egress lighting. These omissions and incompletions constitute violations of FBC-B 107.3.5. The absence of information required by the Florida Building Code constitutes violations of Rule 61G15-33.003(2)(l), and Rule 61G15-33.004(2)(e).

(i) There are no lighting fixture performance specifications on the electrical drawing. This constitutes a violation of Rule 61G15-33.004(2)(a),(j). The Electrical Plan shows egress and exit lighting, but not an appropriate number of egress lights to comply with the Florida Fire Prevention Code (FFPC). The omission of adequate egress lighting violates Rule 61G15-33.004(2)(b).

MECHANICAL (PLUMBING & HVAC) DESIGN DOCUMENTS

18. Respondent’s Mechanical (Plumbing & HVAC) Engineering Design Documents for the Oyster Bar Project are materially deficient as follows:

(a) The drawing does not contain outside (fresh) air make-up conditions. Specifically, there are no make-up air calculations and no combustion air calculations. These omissions constitute a violation of Rule 61G15-34.003(4)(d) and FBC-B107.3.5.

(b) The Plumbing/Gas Plan (on Sheet 2 of 2) contains no plumbing equipment schedules, no design data for a grease trap and no specifications for plumbing system materials. The absence of plumbing equipment schedules, grease trap design data and plumbing system materials specifications constitutes violations of Rule 61G15-34.007(2)(a),(h) and (m).
(c) No Potable water isometric diagrams are shown. Total water fixture units for the building are not shown on the drawing. These omissions constitute a violation of Rule 61G15-34.007(2)(c).

(d) No isometric sanitary riser diagrams are shown and total sanitary waste fixture units are not shown on the drawings. These omissions constitute a violation of Rule 61G15-34.007(2)(d). No building drain cleanout is shown on the plans. This violates FBC-P Section 708.3.5 “Building drain and building sewer junction” which states: There shall be a cleanout near the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level . . . An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer.

(e) 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).

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

(g) Gas is shown to serve a griddle and two fryers in the kitchen. However, the Plumbing/Gas Plan contains no gas system isometric and no gas flow diagrams. The absence of gas system isometrics and gas flow diagrams constitutes violations of Rule 61G15-34.007(2)(g).

**COUNT I**

19. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8), Eleven (11) through Thirteen (13) and Seventeen (17) as if fully set forth in this Count One.
20. Respondent’s Electrical Engineering Plans for the Oyster Bar Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Eight (8), Eleven (11) through Thirteen (13) and Seventeen (17). 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 Oyster Bar Project and (2) the final engineering documents for the Oyster Bar Project were not issued in compliance with acceptable engineering principles.

21. 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

22. Petitioner realleges and incorporates Paragraphs One (1) through Seven (7), Fourteen (14) through Sixteen (16) and Eighteen (18) as if fully set forth in this Count Two.

23. Respondent’s Mechanical (Plumbing) Engineering Design Documents for the Oyster Bar Project contain deficiencies including; but not limited to, those set forth in Paragraphs Paragraphs One (1) through Seven (7), Fourteen (14) through Sixteen (16) 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), F. A. C., 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 Oyster Bar Project and (2) the final engineering documents for the Oyster Bar Project were not issued in compliance with acceptable engineering principles.
24. 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 24th day of March, 2017.

Zana Raybon
Executive Director

B/Y: 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 14, 2017
PCP Members: FLEMING, BRACKEN & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Stephen E. Kastner, P.E. by service upon his attorney of record: Edwin A. Bayó, Esquire, Grossman, Furlow & Bayó, LLC, 2022-2 Raymond Diehl Road, Tallahassee, Florida 32308, by certified mail and First Class U. S. Mail, on the 27th day of March, 2017.

Rebecca Valentine, Paralegal
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

v.

STEPHEN KASTNER, P.E.,

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 STEPHEN KASTNER, 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 39528. Respondent's last known address is 5320 Florida Palm Avenue, Cocoa, Florida 39528.
3. On or about March 22, 2017 Respondent sealed, signed and dated a final set of revised Engineering Documents for a proposed addition to be located above an existing single-floor photography studio in a strip retail center located at 51 N. Orlando Avenue, Cocoa Beach, Fl. (Baldino Studios Project).

4. Respondent acted as Fire Protection Engineer of Record for the Baldino Studios 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), F.A.C.:

   When prepared for inclusion with an application for a general building permit, the Documents shall meet all Engineer's Responsibility Rules, set forth in ... Chapter 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. 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.

5. The March 22, 2017 Engineering Documents for the Baldino Studios Project are materially deficient as follows:

A. Notwithstanding the fact that the Baldino Studios Project is protected with a fire sprinkler system, the travel distance to the exit door when properly measured is more than the 100 feet permitted by the applicable iteration of the Florida Fire Protection Code-Life Safety Code (FFPC-LSC).

B. Section 107 of the applicable iteration of the Florida Building Code (FBC) requires certain minimum information on engineering documents submitted for issuance of a building permit. The following information, required by the FBC, is not on the engineering documents for the Baldino Studios Project: (1) Site plan showing lot lines and setbacks – Not shown; (2) Type of construction – Not properly indicated; (3) Fire resistant construction requirements – Not shown; (4) Accessibility requirements – Not shown.

C. The building for the Baldino Studios Project exceeds the number of stories permitted for the Type of Construction identified on the documents.

D. Fire resistive ratings are not indicated for the exterior walls on the drawings. Exterior walls less than 5 feet from the lot line are required by Table 602 of the FBC to be at least 1-hour fire resistive rated.

E. Two unprotected openings in the north exterior wall and eight unprotected openings in the south exterior wall are shown on the drawings. FBC Table 705.8 does not allow any such openings in a wall when the separation distance to the property line is less than three (3)
feet. All of the above openings are actually on the lot line and thus are less than three (3) feet from the property line.

6. 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."

7. Respondent's Engineering Documents for the Baldino Studios Project contain deficiencies including, but not limited to, those set forth in Paragraphs One (1) through Six (6). 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 Baldino Studios Project and (2) the final Engineering Documents for the Baldino Studios Project were not issued in compliance with acceptable engineering principles.

8. 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 29 day of September, 2017.

Zana Raybon
Executive Director

BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

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JR/rv
PCP DATE: September 19, 2017
PCP Members: FLEMING, RODDENBERRY & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Stephen Kastner, P.E. by service upon his attorney of record: Edwin A. Bayó, Esquire, Grossman, Furlow & Bayó, LLC, 2022-2 Raymond Diehl Road, Tallahassee, Florida 32308, by certified mail and First Class U. S. Mail, on the 29 of September, 2017.

Rebecca Valentine, Paralegal