

FILED
Florida Engineers
Management Corporation
8/14/2018 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 8/14/2018
File # 2018-06555

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017048443

PATRICIA MONTECKI, P.E.,

Respondent,

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

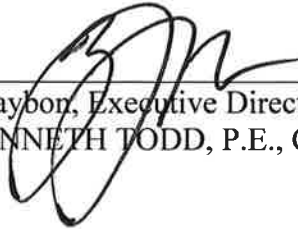
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 08, 2018 in Orlando, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between 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 13 day of August, 2018.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For KENNETH TODD, P.E., CHAIR

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 Patricia Montecki, P.E. at 5032 Chancellor Street NE, St. Petersburg, Florida 33703 this 20 day of August, 2018.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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PATRICIA MONTECKI, P.E.,

Respondent,
_____ /

SETTLEMENT STIPULATION

PATRICIA MONTECKI, 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, PATRICIA MONTECKI, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 54894.
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 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.

4. Respondent's license shall pay an **ADMINISTRATIVE FINE** of \$1,000.00 and **COSTS** of \$1,996.10 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

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

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 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
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.

8. 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.

9. 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.

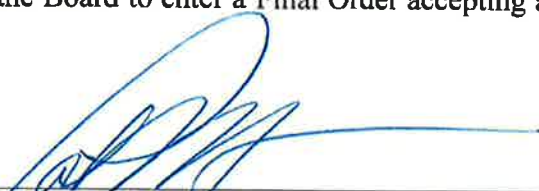
10. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force or effect until the Board issues a Final Order adopting this Stipulation.

11. 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.

12. 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.

13. 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.



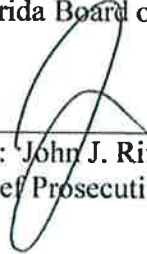
Patricia Montecki, P.E.,
Respondent

Case No. 2017048443

Dated: 6/14/18

APPROVED this 13 day of July, 2018.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers
Management Corporation
5/18/2018 Clerk: Rebecca Valentine

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evelle Lawson-Proctor**
Date **5/18/2018**
File #

FLORIDA BOARD OF PROFESSIONAL
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PATRICIA MONTECKI, P.E.,

FEMC Case No. 2017048443

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 PATRICIA MONTECKI, 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 54894. Respondent's last known address is 5032 Chancellor Street NE, St. Petersburg, Florida 33703.

3. On or about February 3, 2016 Respondent signed, sealed and dated a set of engineering plans for & Lake Seminole Villas New Carport Parking (Lake Seminole Project) located at 9847 Seminole Boulevard, Seminole, Fl. The Lake Seminole Plans were approved and construction commenced.

4. Sheet C-2 of the plans for the Lake Seminole Project is entitled "Site Plan" and shows a proposed ten (10) space asphalt parking addition. The paved area is graded utilizing an inverted crown, which flows east to a spillway. The spillway discharges to a swale at elevation 6.5. The swale flows easterly and then southerly behind units 13 through 18 to an existing detention pond in the southeast corner of Lake Seminole Villas. Sheet C-3 of the plans for the Lake Seminole Project contains details including a cross-section of the spillway, a cross-section of the conveyance swale, and a cross-section of the detention pond.

5. On September 22, 2017 Respondent submitted an electronically signed and sealed letter (Certification Letter) to Mr. Blake Lyon, the Director of Pinellas County Development Review Services (DRS) certifying that the Lake Seminole Project "was constructed such that the design, intent and functionality of the project conform to the approved construction plans". The letter was not stamped "Draft", nor was it qualified in any way.

6. Contrary to the opinions contained in the Certification Letter, no paving had been done in the parking area and no carport had been erected. Additionally, the swale construction outlined in the plans for the Lake Seminole Project had not been completed.

7. Respondent's September 22, 2017 Certification Letter is an engineering "certification" as that term is defined in Rule 61G15-18.011(4), Florida Administrative Code, ("a statement signed and/or sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer's knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice,..."). "Certifications" are subject

to the standards set out in Rule 61G15-29.001 which require that if an engineer is presented with a “certification” that “...involve[s] matters which are beyond the engineer’s scope of services actually provided...” that the engineer must “... (a) modify such certification to limit its scope to those matters which the engineer can properly sign and/or seal, or (b) decline to sign such certification.”

8. 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.”

9. Based upon the facts set forth in Paragraph 8, Respondent failed to comply with the requirements of Rule 61G15-29.001 by not declining to sign the September 22, 2017 Certification Letter or by not materially limiting its scope.

10. By signing and sealing the September 22, 2017 Certification Letter without adequately inspecting and verifying the actual as-built status of the Lake Seminole Villas New Carport Parking, Respondent failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering principles.


11. 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 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 17 day of May, 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: May 07, 2018
PCP Members: BRACKEN, MATTHEWS & FLEMING

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Patricia Montecki, P.E. at 5032 Chancellor Street NE, St. Petersburg, Florida 33703, by certified mail and First Class U. S. Mail, on the 21 of May, 2018.


Rebecca Valentine, Paralegal