

FILED
Florida Engineers
Management Corporation
12/11/2018 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 12/11/2018
File # 2018-10037

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2016054298

WINTHROP BARNETT, 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 December 06, 2018 in Tallahassee, 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 10 day of December, 2018.

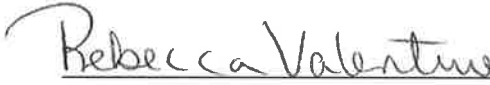
FLORIDA BOARD OF PROFESSIONAL ENGINEERS



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 Winthrop Barnett, P.E. by service upon his attorney of record: Jeff G. Peters, Esquire, 3551 Blairstone Road, Tallahassee, Florida 32301, this 12 day of December, 2018.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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WINTHROP BARNETT, P.E.,

FEMC Case No. 2016054298

Respondent,

SETTLEMENT STIPULATION

WINTHROP BARNETT, 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, WINTHROP BARNETT, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 33603.

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 constitute violations of Chapter 471, Florida Statutes, as alleged in the Complaint. Respondent further admits that those facts constitute violations of the provisions of Chapter 471 and the Board's Rules as referenced 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. Respondent has been disciplined by the Board in FEMC Case # 2015052732. The FINAL ORDER in that Case is attached hereto. The Disciplinary Penalties imposed upon Respondent in FEMC Case # 2015052732 encompass all of the Disciplinary Penalties recommended by the Board's Probable Cause Panel in the instant case. As such therefore, the Board determines that no additional discipline is warranted in the instant case.

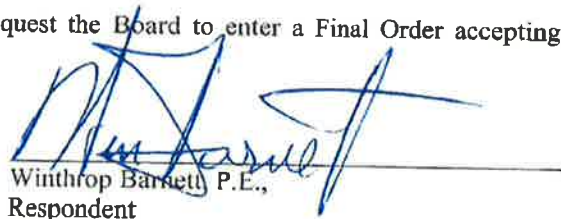
3. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force or effect until the Board issues a Final Order adopting this Stipulation.

4. 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.

5. 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.

6. 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.

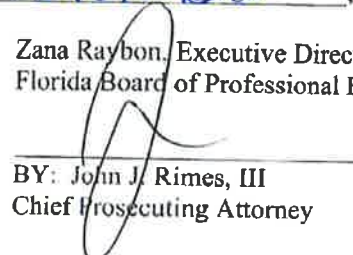

Winthrop Barnett, P.E.,
Respondent

Case No. 2016054298

Dated: Nov 8, 2018

APPROVED this 13 day of November, 2017.

Zana Raybon, Executive Director
Florida Board of Professional Engineers


BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers
Management Corporation
3/24/2017 Clerk: Rebecca Valentine

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date **3/24/2017**
File #

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.
WINTHROP BARNETT, P.E.,

FEMC Case No. 2016054298

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 WINTHROP BARNETT, 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 25576. Respondent's last known address is 708 East Virginia Avenue, Tampa, Florida 33603.

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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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 WINTHROP BARNETT, 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 25576. Respondent's last known address is 708 East Virginia Avenue, Tampa, Florida 33603.

3. During October 2016 Respondent sealed, signed and dated civil engineering design documents for a dog kennel to be located behind the Bostick residence located at 2403 Crosby Road in Valrico, Hillsborough County, Florida (Dog Kennel Project). These plans, along with a narrative and other administrative documents, were submitted to Hillsborough County for the application of a minor site development permit. The plans did not contain any limitations on the use of the plans on their face such as "Preliminary," "For Review Only," "Not for Construction," or any other suitable statement which would denote that the documents were for limited use, were not final and were not intended for permit, construction, or bidding purposes.

4. Respondent's engineering design documents for the Dog Kennel Project are materially deficient as follows:

A. Drawing C-1, Site Engineering depicts geometries of the proposed features but is lacking a north arrow, proposed grading and elevations, storm water management system details (other than a designation of "runoff detention" at an area of undefined boundary), 100-year flood zone delineation, and existing features. In fact, when compared with the accompanying land surveyed site map, several of the existing features are in conflict with the proposed construction. Demolition or relocation of those existing features is not addressed on the document.

B. Drawing C-2, Utilities depicts one 4" diameter sewer line and one 1" diameter water supply line from Crosby Road to the existing Bostick residence. The lines are then extended further to the proposed dog kennel, with the water line reduced to ¾" diameter after the Bostick residence. Drawing C-2 does not identify whether any portions of the lines are existing or proposed new lines. The "General Site Notes" on this drawing indicate that water supply and sewer would be connected to Hillsborough County facilities, but the proposed points of connection were

not identified. The list of material on this sheet does not match, in either length or diameter, the piping depicted on the drawing.

C. Other deficiencies on Drawing C-2 include: unidentified pipe depths, unidentified sewer type (i.e., gravity or pressurized), lack of sewer slope, lack of methods of connection, trenching and pipe installation details. Drawing C-2 also does not have a north arrow and the site address is erroneous (showing that the project is located in Riverview, Florida instead of Valrico, Florida).

D. Finally, Respondent's "Narrative" submitted to Hillsborough County along with the Dog Kennel Project plans states that the Bosticks wanted to continue to use the existing septic tank system for sewer and an on-site well for water supply. The continued use of these systems is inconsistent with the water and sewer line design as depicted on Drawing C-2.

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."

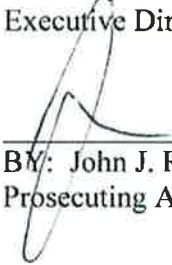
6. By signing, sealing and issuing for filing for public record the engineering documents for the Dog Kennel Project set forth in Paragraph 4, Respondent failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering principles.

7. 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 24 day of March, 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: March 14, 2017
PCP Members: FLEMING, BRACKEN & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Winthrop Barnett, P.E. at 708 East Virginia Avenue, Tampa, Florida 33603, by certified mail and First Class U. S. Mail, on the 27th of March, 2017.


Rebecca Valentine, Paralegal