

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 # 2018-10036

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017030099

RICHARD M. DICKINSON, P.E. S. I.,

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 Richard M. Dickinson, P.E., SI. By service upon his attorney of record: Amanda B. Buffinton, Esquire, Shutts & Bowen LLP, 4301 West Boy Scout Boulevard, Suite 300, Tampa, Florida 33607, this 12 day of December, 2018.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.
RICHARD M. DICKINSON, P.E.,

FEMC Case No. 2018⁷030099

Respondent,

SETTLEMENT STIPULATION

RICHARD M. DICKINSON, 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, RICHARD M. DICKINSON, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 37557.
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.

3. Respondent shall pay an **ADMINISTRATIVE FINE** of \$1,000.00 and **COSTS** of \$2,113.40 to the Board within thirty (30) days 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
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.

6. 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.

7. 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.

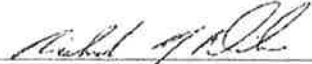
8. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force or effect until the Board issues a Final Order adopting this Stipulation.

9. 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.

10. 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.

11. 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.

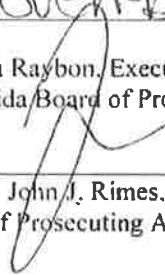


Richard M. Dickinson, P.E.,
Respondent
Case No. 2018030099

Dated: 10/19/2018

APPROVED this 13 day of November, 2018.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers
Management Corporation
9/25/2018 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 **9/25/2018**
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FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

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v.

FEMC Case No. 2017030099

RICHARD M. DICKINSON, P.E. S. I.

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 RICHARD M. DICKINSON, 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 37557. Respondent also holds a Special Inspector registration with the Board having been issued registration number S. I. 1029.

Respondent's last known address is 7387 West Grant Ranch Boulevard, #1511, Littleton, Colorado 80123.

3. 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 therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer."

4. Rule 61G15-19.001(8) provides that "[a] professional engineer shall not be negligent in the practice of engineering while performing duties as a special inspector. Negligence is herein defined as the 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 and special inspection principles. Failure to comply with the procedures set forth in the Responsibility Rules for Professional Engineers Providing Threshold Building Inspection, as adopted by the Board of Professional Engineers, shall be considered 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 engineer."

5. In 2016 Tradition Medical Center in Port St. Lucie, FL was under construction (Medical Center Project). The Tradition Medical Center was a "threshold building" as that term is defined in Section 553.71(7), Florida Statutes.

6. Due to the Tradition Medical Center being a threshold building, the permitting entity for the Medical Center Project-the City of Port Saint Lucie Building Department (Department)-was

required, as mandated by Sections 553.79(5) (a) and (5)(b), Florida Statutes, to assure that during construction a Special Inspector had been selected and compensated by the fee owner of the Medical Center Project.

7. That Special Inspector was required, inter alia, to perform the duties set out in Sections 553.79(5)(a), and (7) (a) Florida Statutes. As provided in Section 553.79(5)(a), Florida Statutes, “[t]he enforcing agency [here the City of Port Saint Lucie Building Department] shall require a Special Inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.”

8. In addition to the foregoing statutory requirements, the Board has adopted Rules that govern the responsibilities of a Special Inspector. Rule 61G15-35.004(4) states that “Special Inspectors shall institute quality assurance procedures to include but not be limited to requiring unscheduled visits, utilization or relevant check lists, use of a Daily Inspection Report and insuring that the Special Inspector or the Authorized Representative is at the project whenever so required by the inspection plan.”

9. Therefore, as provided in Section 553.79(5)(a), before the commencement of the construction of the Medical Center Project, a Threshold Inspection Plan (Plan) was prepared by the structural engineer of record for the Medical Center Project-TRC Worldwide Engineering, Inc. The Plan consisted of 11 pages and was dated January 5, 2016. The Plan became the mandatory inspection template with which the Special Inspector for the Medical Center Project must comply.

10. As provided by Section 559.79, an engineering firm, Professional Services Industries, Inc., was engaged by the fee simple owner of the Medical Center Project to provide a professional engineer to perform the duties of a “Special Inspector” for the Medical Center Project. Respondent was the Professional Engineer and registered Special Inspector tasked by Professional Services Industries, Inc. to perform the Special Inspector duties on the Medical Center Project. In performing those duties, Respondent (or persons authorized by Respondent as Respondent’s representatives) were required by

Rule 61G15-35.004(4) to assure that all field inspections were performed in accordance with the Plan during the construction of the Medical Center Project.

11. The relevant portion of the field inspection provisions of the Plan relating to the pouring of the concrete during the construction of the Medical Center Project set out standards for the inspection of the concrete pours. The Plan required at Paragraph VI D as follows:

1. Field Inspector shall be present on the site for concrete pours. It is incumbent on the General Contractor to properly notify the inspector of upcoming concrete pours.
2. Verify that the Contractor is providing the necessary consolidation and placing techniques.
3. Review aspects of transporting, handling and placement of concrete to avoid adversely affecting concrete mix.
4. Verify that areas requiring specific water/cement ratios are provided with the proper concrete mix.
5. Verify that any concrete mix which has water added at the site has been brought to the attention of the Contractor and that a set of test cylinders is taken from the mix after water is added. No water shall be added to any mix which has a specific water/cement ratio requirement, unless approved by the SEOR.
6. Verify that the concrete testing lab is present on the site.
7. Verify that no concrete is placed which has aged past the limitations of the Contract Documents.
8. Report the addition of water to the concrete mix in the truck. The addition of water beyond the limits given on the approved mix design is not permitted.
9. Document specifically where any concrete is placed, which does not meet these requirements.
10. Record rejected batches carefully, with reasons for rejection, and report it promptly to the SEOR.
11. Periodically check transit mix delivery slips to confirm correct mix and to determine elapsed time between batching and depositing of concrete.
12. Verify that slump is measured at place of deposit for each batch. Emphasize slump measurements when mix consistency is in doubt.
13. Verify that Concrete Technician will take concrete test cylinders in accordance with contract specifications. Review results of strength tests for compliance with requirements of drawings.
14. Confirm that the contractor uses mechanical vibrators to consolidate the fresh concrete. Pay particular attention to consolidation behind embedded anchorages, tendon bearing plates and in beam-column joints.

15. Check that curing methods have been executed in accordance with the Contract Documents.

16. The uniformity of freshly mixed concrete should be visually checked.

17. Check for honeycomb and rock pockets of cast concrete after the removal of forms. During repairs check if they have been cut back to solid material and also if all loose material has been removed. Any large areas should be brought to the attention of the engineer.

18. Check the requirements for the treatment of areas containing defective concrete.

12. Despite the fact that the Plan in Paragraph VI. D explicitly required Respondent or Respondent's authorized representative to be present when all concrete pours occurred, Respondent signed inspection reports that did not comply with the Plan. Specifically, Respondent signed a "Floor Flatness/ Levelness Testing Report (Report)" for an elevated slab that was poured on April 1, 2016 and another Report for the 7th level which was poured on May 3, 2016. Neither Respondent nor Respondent's authorized representative was present when these concrete pours occurred. Respondent signed the Reports notwithstanding the fact that, in both cases, Respondent was aware of the fact that Respondent and/or the authorized representative was not present at the time of the pours.

13. By signing and issuing the Reports set forth in Paragraph 12 when Respondent and/or the authorized representative was not present at the time of the pours, Respondent failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering and special inspection principles as provided in Section 471.033(1)(g) and Rules 61G15-19.001(4), 61G15-19.001(8) and 61G15-35.004(4).

14. Based on the foregoing, Respondent is charged with violating Section 471.033(1) (g), Florida Statutes, and Rules 61G15-19.001(4), 61G15-19.001(8) and 61G15-35.004(4) by engaging in negligence in the practice of engineering as a special inspector.

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 25 day of September, 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: September 12, 2018
PCP Members: MATTHEWS, DRURY & ALBERGO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Richard M. Dickinson, P.E., SI. By service upon his attorney of record: Amanda B. Buffinton, Esquire, Shutts & Bowen LLP, 4301 West Boy Scout Boulevard, Suite 300, Tampa, Florida 33607, by certified mail and First Class U. S. Mail, on the 26 of September, 2018.


Rebecca Valentine, Paralegal