

FILED
Florida Engineers
Management Corporation
11/2/2018 Clerk: Rebecca Valentine

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 11/2/2018
File # 2018-09051

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017058915

DWANE PAINTER, 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 October 31, 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 1 day of November, 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 Dwane Painter, P.E. at 997 Johnnie Dodds Blvd., Apt. 716, Charleston, South Carolina 29464 this _____ day of _____, 2018.

Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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FEMC Case No. 2017058915

DWANE PAINTER, P.E.,

Respondent,

 / DWANE
PAINTER

SETTLEMENT STIPULATION

DWANE PAINTER, 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, DWANE PAINTER, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 69374.
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 \$500.00 and **COSTS** of \$132.60 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

4. 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.


This Stipulation is executed by the Parties to avoid 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. So long as the Board accepts this Settlement Stipulation, Respondent shall expressly waive all further procedural steps and expressly waive all rights to seek judicial review of or otherwise challenge or contest the validity of the joint Stipulated Facts, Conclusions of Law, and the Final Order of the Board incorporating this Stipulation.

6. So long as the Board accepts this Settlement Stipulation, Respondent shall waive the right to seek any attorney's fees or costs from the Board in connection with this disciplinary proceeding.

7. The Parties hereto expressly agree and acknowledge that this Settlement Stipulation and the accompanying Final Order should not be construed in any way as a restriction on Respondent's license, a reprimand, warning, probation, revocation or suspension of Respondent's license. Instead, the Parties enter into this Settlement Stipulation and Final Order to fully and finally resolve any and all disputes between them.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.



Dwane Painter, P.E.,
Respondent
Case No. 2017058915

Dated: 7/26/2018

APPROVED this 31 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

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

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017058915

DWANE PAINTER, 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 DWANE PAINTER, 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 69374. Respondent's last known address is 997 Johnnie Dodds Blvd., Apt. 716, Mount Pleasant, South Carolina 29464.

3. Pursuant to Rule 61G15-22.006(2), Florida Administrative Code, "The Board will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met." Pursuant to the provisions of the Rule, on July 18, 2017 FEMC requested the Department of Business & Professional Regulation (DBPR) to provide a list containing a random number of licensees who had renewed their licenses. This information was received from DBPR on July 21, 2017.

4. Respondent renewed Respondent's Professional Engineer license on February 13, 2017 and attested that Respondent had completed the required Continuing Education necessary for renewal as required by Section 471.017(3)(a), Florida Statutes, which provides in material part:

"(3)(a) The board shall require a demonstration of continuing professional competency of engineers as a condition of license renewal or relicensure. Every licensee must complete 9 continuing education hours for each year of the license renewal period, totaling 18 continuing education hours for the license renewal period. For each renewal period for such continuing education:

1. One hour must relate to this chapter and the rules adopted under this chapter.
2. One hour must relate to professional ethics.
3. Four hours must relate to the licensee's area of practice.
4. The remaining hours may relate to any topic pertinent to the practice of engineering. Continuing education hours may be earned by presenting or attending seminars, in-house or nonclassroom courses, workshops, or professional or technical presentations made at meetings, webinars, conventions, or conferences, including those presented by vendors with specific knowledge related to the licensee's area of practice...."

5. On July 24, 2017, Respondent was provided with a Memo advising Respondent that Respondent was selected to participate in the audit process. On August 3, 2017, Respondent responded to the Audit. Upon review of the information provided by Respondent, it was clear that when Respondent renewed the PE license on February 13, 2017 Respondent lacked the required

Laws & Rules Course and Ethics Course required for renewal as provided in Section 471.017(3), Florida Statutes.

6. In fact, Respondent did not complete the Laws & Rules Course and the Ethics Course until August 15, 2017. In order to have been in compliance with Section 471.017 when Respondent certified that Respondent had taken and completed all required CE Courses Respondent was required to have taken and completed all required CE Courses, including the Laws & Rules Course and the Ethics Course, by February 28, 2017.

7. Section 471.033(1)(a) provides in material part: “(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) Violating any ... rule of the board or department. Rule 61G15-19.001(6)(s), Florida Administrative Code, provides in material part: “(6) [a] professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall include, but not be limited to: (s) Renewing or reactivating a license without completion of Continuing Education (CE) hours and subject areas as required by Section 471.017, F.S., and Rule 61G15-22.001, F.A.C.”

8. By renewing Respondent’s PE license without having completed the required Laws & Rules Course and the Ethics Course at the time that Respondent certified that all required CE Courses had been taken, Respondent violated Section 471.033(1)(a) and Rule 61G15-19.001(6)(s).

9. Based upon the foregoing Respondent is hereby charged with violating Section 471.033(1)(a) and Rule 61G15-19.001(6)(s).

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 Dwane Painter, P.E. at 997 Johnnie Dodds Blvd., Apt. 716, Mount Pleasant, South Carolina 29464, by certified mail and First Class U. S. Mail, on the 21 of May, 2018.


Rebecca Valentine, Paralegal