

FILED
Florida Engineers
Management Corporation
1/10/2019 Clerk: Rebecca Valentine

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 1/10/2019
File # 2019-00146

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

vs.

FEMC Case No.: 2017035452

TIMOTHY A. BARBER, P.E.

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF PROFESSIONAL ENGINEERS (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on December 6, 2018, in Tallahassee, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by John J. Rimes, Chief Prosecuting Attorney. Respondent was not present and was not represented by counsel.

RULING ON MOTION

Petitioner has filed and properly served upon Respondent a Motion for Determination that Respondent forfeited his right to an administrative hearing pursuant to section 120.57(1), F.S. and to convene a section 120.57(2), F.S. hearing not involving disputed issues of material fact. Respondent failed to respond to the Motion.

After consideration of the Motion, the Board finds that Respondent failed to respond to the served Administrative Complaint within the time period provided by law, which constitutes a waiver of the right to elect a hearing. Accordingly, Petitioner's Motion is GRANTED and the Board convenes a section 120.57(2), F.S., hearing.

FINDINGS OF FACT

1. Respondent was properly served with a copy of the Administrative Complaint and did not file a response within 21 days of service.

2. The investigative file provided and accepted into evidence establishes the facts alleged in the Administrative Complaint.

3. The Board adopts as its finding of facts the allegations of fact in the Administrative Complaint.

CONCLUSIONS OF LAW

1. Failure to timely respond to a properly served Administrative Complaint constitutes a waiver of the right to elect a hearing involving disputed issues of material fact pursuant to Section 120.57(1), Florida Statutes.

2. The established facts constitute the violations set forth in the Administrative Complaint, which are adopted and incorporated by reference as the conclusions of law in this case and for which the Board may impose discipline.

3. The Board is empowered by Sections 455.227 and 471.033, Florida Statutes, to impose a penalty against the Respondent. THEREFORE, IT IS

ORDERED that Respondent's license to practice Professional Engineering, No. 63974, is REVOKED. It is further

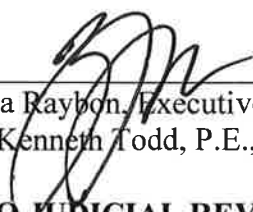
ORDERED that the Board assesses and imposes administrative costs in the amount of eight hundred thirty-nine dollars and eighty-five cents (\$839.85).

This Final Order shall become effective upon filing with the Clerk of the Department of

Business and Professional Regulation.

DONE AND ORDERED this 5 day of January, 2019.

BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
for Kenneth Todd, P.E., CFM, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to **Timothy A. Barber, P.E.**, 36702 Calhoun Road, Eustis, Florida 32736; by interoffice mail to John J. Rimes, Chief Prosecuting Attorney, FEMC, 2639 N. Monroe Street B-112, Tallahassee FL 32303 and Florida Board of Professional Engineers, 2639 N. Monroe Street B-112, Tallahassee FL 32303; and by electronic mail to Lawrence Harris, Assistant Attorney General, Lawrence.Harris@myfloridalegal.com, this 10 day of January, 2019.



Rebecca Valent

FILED
Florida Engineers
Management Corporation
03/26/2018 **Clerk: Rebecca Valentine**

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evelle Lawson-Proctor**
Date **3/26/2018**
File #

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017035452

TIMOTHY A. BARBER, 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 TIMOTHY A. BARBER, 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 63974. Respondent's last known address is 36702 Calhoun Road, Eustis, Florida 32736.

3. In May 2017 Respondent, through ACS Engineering, Inc. agreed to provide the engineering services for the renovation and addition to the existing residence of Casey Hodler and his fiancé, Diana McKay (The Homeowners) located at 3120 E. SR 44, Eustis, FL 32736. The Homeowners paid a \$1,800 of the \$2,700 fee in accordance with the terms of their agreement. Respondent prepared preliminary drawings for The Homeowners' comments, which they provided. The Homeowners tried numerous times to get a response and a timetable for completing the final drawings. The Homeowners tried unsuccessfully to get Respondent to complete the engineering services contracted for or to get a refund of their payment. Respondent hasn't responded to any communications.

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."

5. Respondent has provided no explanation for never providing to Respondent's client, the engineering documents for which Respondent was paid. As a result, insofar as Respondent accepted The Homeowners funds and failed to perform the services agreed upon, Respondent failed to exercise due care and has failed to have due regard for engineering standards and principles.

6. As set forth in Paragraphs Three (3) through Five (5) Respondent failed to exercise due care and has failed to have due regard for engineering standards and 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 being negligent 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

FRPE vs. Timothy Barber, P.E., Case No. 2017035452

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 26 day of March, 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: March 14, 2018
PCP Members: FLEMING, BRACKEN & MATTHEWS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Timothy A. Barber, P.E. at 36702 Calhoun Road, Eustis Florida 32736, by certified mail and First Class U. S. Mail, on the 27 of March, 2018.


Rebecca Valentine, Paralegal