

FILED  
Florida Engineers  
Management Corporation  
8/15/2019 Clerk: Rebecca Valentine

FILED  
Department of Business and Professional Regulation  
Senior Deputy Agency Clerk  
CLERK Brandon Nichols  
Date 8/15/2019  
File # 2019-06997

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017011835

KHANH LE, 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, 2019, in Daytona, 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 12 day of August, 2019.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS




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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 Khanh Le, P.E. by service upon his attorney of record: Diane S. Perera, Esquire, Law Offices of Diane S. Perera, P.A, 12485 SW 137 Avenue, Suite 106, Miami, Florida 33186 this 15 day of August, 2019.



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Rebecca Valentine,  
Paralegal

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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ENGINEERS.

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v.

FEMC Case No. 2017011835

KHANH Q. LE, P.E.,

Respondent,

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**SETTLEMENT STIPULATION**

KHANH Q. LE, 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, KHANH Q. LE, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 70935.
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 \$3109.50 to the Board in Four (4) Payments of \$1027.00 to the Board. The payments shall be made at Three (3), Six (6), Nine (9) months and One (1) Year from the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. Early payment is authorized.

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

5. 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.

6. 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](mailto: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.

7. Respondent does not normally provide engineering services that fall within the definition of Fire Protection System Engineering as that term is defined in Rule 61G15-32.002(5), Florida Administrative Code. If and when Respondent determines to provide Fire Protection System Engineering services, Respondent shall immediately notify the Board in writing of Respondent's decision to provide such services and again when the project (s) is completed. At that time Respondent shall be placed on **PROBATION** with the following terms:

a. Respondent shall submit to the Board for **PROJECT REVIEW** the Fire Protection System Engineering project(s) (signed, sealed, and dated), completed by the Respondent. Thereafter, twelve (12) months after the initial review, Respondent shall also shall submit to the Board any completed project(s) (signed, sealed, and dated), that have been completed within that twelve (12) month period after the initial review. The projects shall include: **all fire protection engineering projects and reports signed and sealed by Respondent.**

b. **A FEMC Consultant** will select at least one (1) and, if available, at most two (2) projects from each submitted list for review. **Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultants.** The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, seal. Sealed project review materials may be copied and submitted electronically, if desired by the Respondent. Respondent is also responsible for the Consultant's fees for reviewing the projects, and shall remit payment in the amount of \$2,000.00 by check or money order made

payable in the name of the Board's Consultant at the time that the project lists are submitted to FEMC. In the event that the project review cost exceeds \$2,000.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$2,000.00, then the unused portion will be refunded to. Should the Consultant return an unfavorable report concerning Respondent's projects, that report shall be submitted to the Probable Cause Panel for determination of whether additional disciplinary proceedings should be initiated.

c. As to the second project review, if the Respondent has not performed engineering services on a sufficient number of projects to make the submission required by the terms of probation, the probation shall be extended for a period of six (6) months to allow Respondent to perform the services necessary for the required review. **However, if, after the extension has expired, Respondent does not perform sufficient engineering services to meet the requirements of the terms of probation relating to the second review, Respondent's Probation will be STAYED until Respondent notifies the Board in writing that Respondent wishes to recommence Fire Protection practice and to produce Fire Protection engineering plans at which time the probationary conditions set out in Paragraphs 7a-7c for the second review will revive and be imposed.**

d. Should the FEMC Consultant return a favorable report after reviewing the first set of plans, the requirements for the second year of probation may be waived and the probation may be terminated. A "favorable report" is herein defined as a report that, in the sole opinion of the Consultant with the concurrence of the Board, finds that the plans reviewed were considered to be free of any material deficiencies.

e. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.



Khanh Q. Le, P.E.,

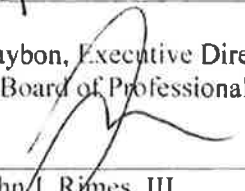


Respondent  
Case No. 2017011835

Dated: May 14, 2019

APPROVED this 15 day of May, 201~~8~~<sup>9</sup>.

Zana Raybon, Executive Director  
Florida Board of Professional Engineers

  
BY: John J. Rimes, III  
Chief Prosecuting Attorney

STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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| <b>FILED</b>                                       |                       |
| Department of Business and Professional Regulation |                       |
| Deputy Agency Clerk                                |                       |
| CLERK  | Evette Lawson-Proctor |
| Date   | 3/19/2019             |
| File #   |                       |

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2017011835

KHANH LE, P.E.,

Respondent,

AMENDED 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 KHANH LE, 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 70935. Respondent's last known address is 427 Palm Crest Lane, Lake Mary, Florida 32746.

3. On or about July 7, 2016 Respondent sealed, signed and dated a set of five drawings consisting of Sheet C-S, Cover Sheet; DE-1, Demolition Plan; A-1, First and Second Floor Plans; A-2, Typical Suite Interior Plan, which includes Plumbing and Electrical Plans; and D-1, General Details, which includes typical walls. The drawings were for a project involving the conversion of a two-story, 32-unit motel building located at 711 W. Beach Drive in Panama City (Bay County), Florida to an Assisted Living Facility (ALF) (Conversion Project). The Conversion Project involved an occupancy change from “Motel” where the occupants are primarily transient in nature (Residential Group R-1) to Congregate Living Facilities (nontransient) with more than 16 occupants.

4. The Building Code Information on the Conversion Project Cover Sheet states that the Occupancy Classification is Florida Building Code-Building (FBC-B) Section 310.4, but incorrectly identifies the classification as Residential Group R-4. In fact, the Conversion Project structure is an Assisted Living Facility, which for 32 units, is classified as an Institutional Group I-1 occupancy (FBC-B Section 308.3) insofar as the structure serves more than 16 persons who reside on a 24-hour basis in a supervised residential environment, receive custodial care, and are capable of self-preservation. As a result, as opposed to Respondent’s design criteria, the correct Occupancy Classification for the Conversion Project is Institutional Group (I), and the design must therefore comply with Chapters 7, 8 and 9 of FBC-Existing Building (FBC-E).

5. The Board has adopted Responsibility Rules of Professional Engineers (“Responsibility Rules”). These Rules are contained in Chapters 61G15-30 to 61G15-36, Fla. Admin. Code. Professional Engineers who perform services covered by the Responsibility Rules are required to comply with the Rules.

6. Respondent also placed no limitations or restrictions on the use of or on Respondent's scope of responsibility for any of the engineering documents that Respondent issued for the Conversion Project.

7. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the Conversion Project, is professionally responsible for the documents prepared. As such, Respondent is responsible for producing documents that comply with the applicable portions of the Responsibility Rules. Sheet C-S, Cover Sheet; DE-1, Demolition Plan; A-1, First and Second Floor Plans; A-2, Typical Suite Interior Plan, which includes Plumbing and Electrical Plans; and D-1, General Details, design documents for the Conversion Project contained material deficiencies and did not comply with the requirements of the FBC and the Board's Responsibility Rules.

8. By signing and sealing the engineering documents for the Conversion Project as the Engineer of Record, Respondent was either required to issue documents that complied with the FBC and the Responsibility Rules or to describe the purposeful limitations to or exclusions from the requirements of the FBC and the Board's Responsibility Rules on the plans. Based upon the Respondent's, the client, and building officials actions subsequent to the issuance of the Conversion Project plans, as set it is apparent that Respondent the Respondent's, the client, and building officials actions did not necessarily intend for the Conversion Project plans to be the final engineering upon which a building permit for the conversion of the Beach Drive structure to a Congregate Living Facility would be issued.

9. If an engineer intends to seal and sign engineering documents that are not intended to be the final engineering documents, the engineer must comply with either with the provisions of Rule 61G15-30.003(3): "When elements of the project are shown on an engineering document

only for information or clarification and the Engineer does not intend to accept responsibility for the elements, the engineer shall clearly note on the documents the extent of his responsibility[]” or Rule 61G15-30.003(5) “Engineers shall clearly note on any preliminary engineering documents that such documents are not in final form, but are being transmitted to the public agency to receive agency reviews, comments and interpretations.” By issuing the Conversion Project documents as Engineer of Record, Respondent, as provided in Rule 61G15-30.003(1), was required either to assure that the documents fully complied with the FBC and the Responsibility Rules which apply to documents issued by the Engineer of Record or, as provided in Rule 61G15-30.003(3) and (5), to note on the documents Respondent’s level of responsibility if some different and less comprehensive standard of engineering services was intended.

10. However, the Conversion Project documents issued by Respondent provided no limiting language as required by Rule 61G15-30.003(3) or (5). As a result, the plans, based upon the lack of any such limitation on Respondent’s responsibility, should have been in full compliance with the FBC and the Responsibility Rules. As set out in Paragraph 7, without such language being placed on the plans, the documents were materially deficient and did not comply with the FBC and the Responsibility Rules.

11. When the occupancy of the Conversion Project facility was changed from R-1 to I-1, FBC-E Section 1012 became the ruling code, requiring compliance with FBC-E chapter 9 for Level 3 Alterations, as well as Chapter 7 for Level 1 alterations and Chapter 8 for Level 2 Alterations. FBC-E Section 904.1 states that Automatic sprinkler systems shall be provided for all work areas . . . . FBC-E 804.2.4 states: In buildings with Group I occupancies that have exits or corridors shared by more than one tenant shall be provided with an automatic sprinkler system.

12. Respondent's Drawing Sheet C-S states that the construction would be "Type III-B with Existing Fire Sprinkler System." However, the existing condition and the level of code-compliance of the existing fire sprinkler system is not known and Respondent's drawings do not require a field investigation to evaluate the condition. While the drawings state that the existing system is to be re-used, the point of supply connection is not shown, no riser and/or control valving is shown, no water flow test is acknowledged or required, and no water pressure is acknowledged or required. Failure to address the issue of requiring the confirmation or provision of an up-to-date automatic fire sprinkler system constitutes a violation of FBC-E Section 904.1 and FBC-E 804.2.4.

13. 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."

14. Rule 61G15-19.001(4), Fla. Admin. Code, 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."

### **COUNT I**

15. Petitioner realleges and incorporates Paragraphs One (1) through Fourteen (14) as if fully set forth in this Count One.

16. Respondent's engineering drawings for the Conversion Project contain deficiencies including; but not limited to, those set forth in Paragraph Twelve (12). As a result of those deficiencies, Respondent violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by sealing and signing engineering documents that were issued and filed for public record when such documents were materially deficient in that Respondent: (1) did not exercise due care in the preparation of the final engineering documents for the Conversion Project and (2) the final engineering documents for the Conversion Project were not issued in compliance with acceptable engineering principles.

17. 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.

## COUNT II

18. Petitioner realleges and incorporates Paragraphs One (1) through Ten (10) as if fully set forth in this Count Two.

19. Respondent sealed, signed and dated engineering design documents on July 7, 2016 for the Conversion Project as the Engineer of Record for Electrical, Mechanical (HVAC and Plumbing) and Fire Protection portions of the Conversion Project. Respondent failed to place any limitations of the scope of work provided as required by Rule 61G15-30.003(3) and 61G15-30.003(5).

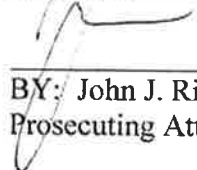
20. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(a), Florida Statutes, by "[v]iolating ... [a] rule of the [B]oard..."

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 18 day of March, 2019.

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 13, 2019  
PCP Members: MATTHEWS, DRURY & ALBERGO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Khanh Q. Le, P.E., By service upon his attorney of record: Diane Perera, Esquire, 12485 SW Avenue, Suite 106, Miami Florida 33186, by certified mail and First Class U. S. Mail, on the 19 of March, 2019.

  
Rebecca Valentine, Paralegal