STATE OF FLORIDA

FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v.

DEWEY M. LEBLANC, P.E.,

Respondent,

FEMC Case No. 2018019986

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.
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 Dewey M. LeBlanc, P.E. by service upon his attorney of record: S. Elysha Luken, Esquire. 101 Tower, Suite 1910, 101 NE. Third Avenue, Ft. Lauderdale, Florida 33301 this 15th day of August, 2019.

Rebecca Valentine,
Paralegal
STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

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v. FEMC Case No. 2018019986

DEWEY M. LEBLANC, P.E.,

Respondent, /

SETTLEMENT STIPULATION

DEWEY M. LEBLANC, 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, DEWEY M. LEBLANC, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 35683.

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. A true and correct copy of the filed Administrative Complaint is attached hereto and incorporated herein by reference as "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. FEMC hereby DISMISSES Paragraphs 11 and 12 of the Administrative Complaint.

3. Respondent neither admits nor denies the allegations in the Administrative Complaint, however, Respondent admits that the facts set forth in the Administrative Complaint, if proven, constitute violations of Chapters 455 and 471, Florida Statutes, as alleged in the Administrative Complaint. The parties further concur that the agreements, stipulations, or statements herein are not intended to be used for purposes other than actions or proceedings arising under the administrative authority of the Petitioner.

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 COSTS of $1,160.75 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'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. 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 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.

7.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.

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.

Dewey M. LeBlanc, P.E.,
Respondent
Case No. 2018019986
Dated: 3/2/19
APPROVED this 18 day of April, 2019.

Zana Raybon, Executive Director
Florida Board of Professional Engineers

BY: John J. Rimes, III
Chief Prosecuting Attorney
FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v.

DEWEY M. LEBLANC, 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 DEWEY M. LEBLANC, 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 35683 and Special Inspector
Certificate 1177. Respondent’s last known address is 1599 SW 30th Avenue, Suite 20, Boynton Beach, Florida 33425.

3. On November 28, 2017 Respondent signed, sealed and dated a “Certificate of Compliance” (Certificate) for the construction of STAIR RAILINGS which occurred at Midtown 29, 180 NE 29th St. Miami, FL 33137 (Midtown Project). The Certificate was filed with the City of Miami Building Department. In material part the Certificate stated: “To the best of my knowledge and belief, the construction of all structural load-bearing components described in the threshold inspection plan complies with the permitted documents.”

4. In fact, the constructed STAIR RAILINGS were completed in a manner which was materially different than was called out on the permitted documents. According to Respondent, there was a conflict on the drawings concerning the spacing of the rail posts. As a result, Respondent decided the spacing shown on the plans superseded the spacing called out in a dimension note.

5. Moreover, Respondent also stated that a welded plate connection had been substituted during construction for the thru bolt connection shown on the drawings. Respondent determined that the substituted welded connection was a better connection than the thru bolted connection. Additionally, the end rail post was smaller than called for on the plans.

6. Finally, the Certificate (and the underlying reports) prepared by Respondent indicated the STAIR RAILINGS inspections were part of Respondent’s threshold inspection services as provided by Section 553.79(5), Florida Statutes. The STAIR RAILINGS were not part of the “Structural Inspection Plan” prepared by the engineer of record. In fact, the plan specifically excluded the STAIR RAILINGS from the required inspections.

7. Respondent did not consult with the Engineer of Record (EOR) for the construction occurring at the Midtown Project before making Respondent’s determinations which are set out in the Certificate. The generally accepted method for resolving conflict between the design information
found on the permit drawings and the construction actually completed is to send a Request for Information (RFI) to the EOR noting the conflict. The EOR then would resolve the conflict by responding to the RFI and approving the modifications. This process was not followed before Respondent issued the Certificate for the Midtown Project.

8. Respondent admits the railings were not installed in accordance with the permitted drawings. Respondent admits that Respondent decided how the conflict shown on the drawings should be interpreted without discussing the issue with the EOR. As a result, when Respondent issued the Certificate and certified the STAIR RAILINGS complied with the permitted documents that was not the case. Moreover, Respondent did not have the authorization from the EOR to modify the permitted documents to conform to the actual construction.

9. Respondent’s November 28, 2017 Certificate is an engineering “certification” as that term is defined in Rule 61G15-18.011(4), Florida Administrative Code, ("a statement signed and/or sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer’s knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice,..."). “Certifications” are subject to the standards set out in Rule 61G15-29.001 which require that if an engineer is presented with a “certification” that “…involve[s] matters which are beyond the engineer’s scope of services actually provided…” that the engineer must “… (a) modify such certification to limit its scope to those matters which the engineer can properly sign and/or seal, or (b) decline to sign such certification.”

10. Section 471.033(1)(a), Florida Statutes, provides in material part: “[t]he following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) [v]iolating any other provision of [Chapter 471] or rule of the [B]oard ...."
11. 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.”

12. Based upon the facts set forth in Paragraphs 3-8, Respondent failed to comply with the requirements of Rule 61G15-29.001 by stating the Certificate that the inspection upon which the Certificate was based occurred as part of the threshold inspection plan for the Midtown Project when, in fact, the threshold inspection plan explicitly excluded the STAIR RAILINGS from the required inspections.

13. Based upon the facts set forth in Paragraphs 3-8, Respondent failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering principles by certifying the constructed STAIR RAILINGS complied with the permitted documents when, in fact, Respondent did not confirm with the EOR for the Midtown Project that the modified construction at the site complied with the permitted documents.

14. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(a), Florida Statutes, by violating Rule 61G15-29.001.

15. 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 28 day of January, 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: January 16, 2019
PCP Members: MATTHEWS, DRURY & ALBERGO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Dewey M. LeBlanc, P.E., By service
upon his attorney of record: S. Elysha Luken, Esquire. 101 Tower, Suite 1910, 101 NE. Third Avenue,
Ft. Lauderdale, Florida 33301, by certified mail and First Class U. S. Mail, on the 29 of

Rebecca Valentine, Paralegal