

FILED
Florida Engineers
Management Corporation
02/27/2020 **Clerk: Rebecca Valentine**

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK Brandon Nichols
Date 2/27/2020
File # 2020-01726

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

vs.

FEMC Case No.: 2018031733
LICENSE NO.: PE 66753

PEDRO J. FLAQUER, 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 12, 2019, 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 present and was represented by counsel, Jeff G. Peters, Esq.

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

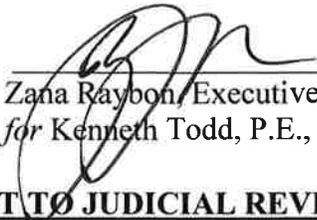
1. Failure to timely respond to a properly served Administrative Complaint constitutes a waiver of the right to elect a hearing involving disputed issues of material fact pursuant to Section 120.57(1), Florida Statutes.
2. The admitted facts constitute the violations set forth in the Administrative Complaint, which are adopted and incorporated by reference as the conclusions of law in this case.
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 Florida Professional Engineering license is REVOKED.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 25 day of February, 2020.

BOARD OF PROFESSIONAL ENGINEERS


Zana Raybon, Executive Director
for Kenneth Todd, P.E., 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 and electronic mail to **Pedro J. Flaquer, P.E.**, 237 Cherry Hill Road, Blooming Grove, New York 10914 and **Jeff G. Peters, Esq.**, 3551 Blairstone Road, Suite 105, Tallahassee, FL 32301; by interoffice mail to **John J. Rimes**, Chief Prosecuting Attorney, and **Florida Board of Professional Engineers**, 2639 N. Monroe Street B-112, Tallahassee FL 32303; and by electronic mail to **Lawrence Harris**, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com, this 28 day of February, 2020.

Rebecca Valentine

FILED
Florida Engineers
Management Corporation
07/29/2019 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: 7/29/2019
File #

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2018031733

PEDRO J. FLAQUER, 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 PEDRO J. FLAQUER, 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 66753. Respondent's last known address is 237 Cherry Hill Road, Blooming Grove, New York 10914.

CRIMINAL CONVICTION

3. Section 471.033(1)(d), Florida Statutes, provides "[t]he following acts constitute grounds for which the disciplinary actions in [Section 471.033(3)] may be taken: ... (d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering." Likewise, Section 455.227(1)(c), Florida Statutes, provides that disciplinary action can be taken against a Professional Engineer for "[b]eing convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession."

4. Section 471.013(1)(a), Florida Statutes, provides in material part: "A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character...." Insofar as being of good moral character is a specific prerequisite to being initially licensed as a Professional Engineer, the maintenance of such good moral character directly relates to the practice of engineering or to the ability to practice engineering.

5. On May 22, 2003 Respondent pleaded guilty in the U. S. District Court for the Eastern District of New York, CASE NO. 1:03-cr-00512-JBW, to violating Title 18, United States Code Sections 666(a)(1)(B) and 3551 et seq. The plea stemmed from Information filed by the U. S. Attorney which alleged that Respondent, between February, 2002 and May, 2002, within the Eastern District of New York while being an Administrative Engineer for the Design Department

of the New York City Housing Authority, did knowingly, intentionally, and corruptly accept and agree to accept cash payments of \$5,000 or more from another person intending to be influenced and rewarded in connection with the business of the New York City Housing Authority. Respondent was adjudicated guilty and was sentenced to the following: 3 years' probation w/conditions; \$100.00 special assessment; \$20,000.00 fine; \$1,400.00 restitution; shall not possess a firearm.

6. The criminal activity underlying Respondent's 2003 conviction in CASE NO. 1:03-cr-00512-JBW occurred as a direct result of Respondent being employed as an Administrative Engineer for the Design Department of the New York City Housing Authority and thus directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering. Moreover, as a result of being adjudicated guilty of violating Title 18 United States Code Sections 666(a)(1)(B) and 3551 et seq, Respondent was convicted of committing a crime of moral turpitude and thus did not possess the good moral character required of a Professional Engineer when Respondent applied for licensure as a Professional Engineer in Florida in 2007. As a result, Respondent's conviction directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering.

FAILURE TO REPORT CRIMINAL CONVICTION TO BOARD

7. Section 471.033(1)(a), Florida Statutes, provides: "[t]he following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) Violating any provision of s. 455.227(1),..." Section 455.227(1)(t), Florida Statutes, provides that the license of a professional engineer may be disciplined for "[f]ailing to report in writing to the board or, if there is no board, to the department within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any

jurisdiction. A licensee must report a conviction, finding of guilt, plea, or adjudication entered before the effective date of this paragraph within 30 days after the effective date of this paragraph.”

8. Respondent failed to report the May 22, 2003 conviction to FEMC or the Board.

**NEW YORK DISCIPLINE OF RESPONDENT’S PROFESSIONAL ENGINEER
LICENSE**

9. Section 471.033(1)(c), Florida Statutes, states: “(1)The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (c) Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or chapter 455.”

10. In 1988 Respondent was licensed to practice as a professional engineer in the State of New York, having been issued license No. 065024 by the New York State Education Department, Board of Professional Engineers and Land Surveyors (NY Board). Respondent was charged by the NY Board with two separate violations of the New York professional engineering licensure act (Docket Number 26099). The first charge stemmed from the 2003 federal conviction discussed above. The second charge stemmed from acts which would not be violations in Florida.

11. On June 19, 2012 Respondent relinquished Respondent’s New York PE license to the NY Board. The relinquishment was a direct result of the charges levied against Respondent’s New York PE license as set forth in Paragraph Ten (10) and constituted discipline of Respondent’s New York PE license.

**OBTAINING LICENSURE AS A FLORIDA PROFESSIONAL ENGINEER BY
FRAUDULENT REPRESENTATION**

12. Section 455.227(1)(h), Florida Statutes, provides “(1)...The following acts shall constitute grounds for which the disciplinary actions ... may be taken (h) Attempting to obtain, obtaining, or renewing a license to practice a profession by ... fraudulent misrepresentation,” Likewise, Section 471.033(1)(b), Florida Statutes, provides: “ (1) The following acts constitute grounds for which ... disciplinary actions ... may be taken: b) Attempting to procure a license to practice engineering by ... fraudulent misrepresentations.”

13. Respondent was initially licensed as a professional engineer in Florida in 1991 (PE. License # 44467). Due to nonrenewal that license became null and void in 2001. Then, in 2007 Respondent sought a new license as a PE in Florida. Respondent’s second Florida PE license, #66753, was issued on July 23, 2007. When Respondent applied for licensure by endorsement in 2007, Respondent answered “NO” to the question on the application that stated: Have you ever been convicted or found guilty, or entered a plea of guilty or nolo contendere regardless of adjudication, of a crime in any jurisdiction, or have you ever been found guilty by a military court-martial?” At that time Respondent was well aware of the fact that in 2003 Respondent had been convicted in New York as a result of the criminal activity referenced in Paragraphs Five (5) and Six (6).

14. Respondent fraudulently obtained Florida PE license #66753 by failing to report the 2003 New York criminal conviction when Respondent applied for licensure in Florida in 2007.

COUNT I

15. Petitioner realleges and incorporates Paragraphs One (1) through Six (6) as if fully set forth in this Count One.

16. As alleged in Paragraphs Three (3) through Six (6) by being found guilty of violating Title 18, United States Code Sections 666(a)(1)(B) and 3551 et seq. Respondent was found guilty of committing a crime that directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering. Respondent's conviction as a result of violating Title 18, United States Code Sections 666(a)(1)(B) and 3551 et seq constituted conviction of a crime of moral turpitude and thus Respondent has not maintained the good moral character required of a Professional Engineer. As a result, Respondent's conviction directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering.

17. Based upon the foregoing, Respondent is charged with violating Section 471.033(1)(d), Florida Statutes.

COUNT II

18. Petitioner realleges and incorporates Paragraphs One (1) through Eight (8) as if fully set forth in this Count Two.

19. As alleged in Paragraphs Seven (7) and Eight (8) Respondent failed to report the May 22, 2003 conviction to FEMC or the Board.

20. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(a), Florida Statutes, by violating the provisions of Section 455.227(1)(t), Florida Statutes.

COUNT III

21. Petitioner realleges and incorporates One (1) through Eleven (11) as if fully set forth in this Count Three.

22. The actions of the New York Board described in Paragraphs Nine through Eleven (11) constitutes discipline of Respondent's New York professional engineering license for acts

which would constitute violations of Chapter 471 if those actions had occurred in Florida in that Respondent's being disciplined by the New York Board as a result of being found guilty of committing a crime that directly relates to the Respondent's practice of engineering and to Respondent's ability to practice engineering.

23. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(c), Florida Statutes, by having Respondent's "license to practice engineering ... acted against ... by the licensing authority of another state, territory, or country, for any act that would constitute a violation of [Chapter 471]."

COUNT IV

24. Petitioner realleges and incorporates Paragraphs One (1), through Six (6) and Twelve (12) through Fourteen (14).

25. As alleged in Paragraphs Twelve (12) through Fourteen (14), Respondent fraudulently obtained Respondent's professional engineering license in Florida due to Respondent's failing to disclose the criminal conviction described in Paragraph Five (5) when Respondent applied to become a professional engineering by endorsement in 2007.

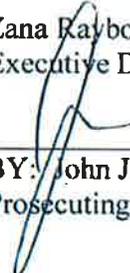
26. Based on the foregoing, Respondent is charged with violating Sections 455.227(1)(h) and Section 471.033(1)(b), Florida Statutes, by obtaining a license to practice a profession by ... fraudulent misrepresentation,"

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 29 day of July, 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: July 17, 2019
PCP Members: MATTHEWS, FLEMING & DRURY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Pedro J. Flaquer, P.E. at 237 Cherry Hill Road, Blooming Grove, New York 10914, by certified mail and First Class U. S. Mail, on the 5 of August, 2019.


Rebecca Valentine, Paralegal