

FILED
Florida Engineers
Management Corporation
6/25/2020 Clerk: Rebecca Valentine

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK Brandon Nichols
Date 6/25/2020
File # 2020-03543

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2019039953

CLAYTON G. BRISTOL, P.E.,

Respondent,

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

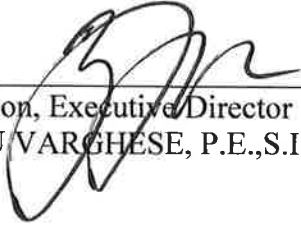
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 10, 2020 via Video Teleconference in Tallahassee, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final 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 22 day of June, 2020.


FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For BABU VARGHESE, P.E., S.I., 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 Clayton G. Bristol, P.E. at 2216 Krista Lane, Brandon, Florida 33511 this 25 day of June, 2020.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2019039953

CLAYTON G. BRISTOL, P.E.

Respondent,
_____ /

SETTLEMENT STIPULATION

CLAYTON G. BRISTOL, 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, CLAYTON G. BRISTOL, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 84183.
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 \$1,628.15 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 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 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.

6. 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.

7. 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.

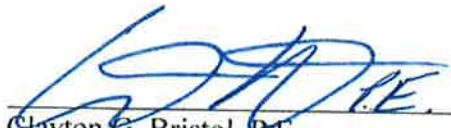
8. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force or effect until the Board issues a Final Order adopting this Stipulation.

9. 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.

10. 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.

11. 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.

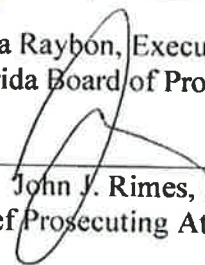


Clayton G. Bristol, P.E.,
Respondent
Case No. 2019039953

Dated: April 9, 2020

APPROVED this 20 day of April, 2020.

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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FEMC Case No. 2019039953

CLAYTON G. BRISTOL, 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 CLAYTON G. BRISTOL, 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 84183. Respondent's last known address is 2216 Krista Lane, Brandon, Florida 33511.

3. Rule 61G15-29.001(3)(c), Florida Administrative Code, provides in material part that: “[e]ngineers who sign, date and seal certifications which.... relate to matters which were not prepared under [the] engineer’s responsible supervision direction, or control; would be subject to discipline pursuant to subsection 61G15-19.001(6), F.A.C.” The standards to determine whether a license has exercised responsible supervision and control are contained in Rule 61G15-18.011(1), Florida Administrative Code.

4. Respondent sent sealed, signed and dated letters (First and Second Opinion Letters) to the City of Tarpon Springs Building Department, dated June 26, 2019, for a renovation project located at 338 E Lemon St., Tarpon Springs. In material part the First and Second Opinion Letters stated that “all work is complete and in compliance with Florida Building Code 2017 and applicable codes and regulations.” The Letters were received by the City of Tarpon Springs Building Department on July 17, 2019 and July 24, 2019.

5. The City of Tarpon Springs Building Department performed a site visit to the E Lemon St property on July 8, 2019 to find an incompletely constructed roof. Subsequently, and after the complaint that engendered FEMC Case No. 2019039953 was filed with the Board, a Third Opinion Letter was created by Respondent. The Third Opinion Letter was signed, sealed and dated by Respondent.

6. Even though the above timeline makes the correctness of the date impossible, the Third Opinion Letter was also dated June 26, 2019. The Third Opinion Letter was received by the City of Tarpon Springs Building Department on August 28, 2019. The Third Opinion Letter provided a list of four discrepancies in the construction and noted that the work at 338 E Lemon St. was not complete. The Third Opinion Letter essentially confirmed the July 8, 2019 findings of the City of Tarpon Springs Building Department’s inspection on that date.

7. The First and Second Opinion Letters are engineering “certifications” 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.”

8. The First and Second Opinion Letters were materially deficient in that the Letters stated that “all work is complete and in compliance with Florida Building Code 2017 and applicable codes and regulations.” In fact, as found by the City of Tarpon Springs Building Department and by Respondent in the Third Opinion Letter, the roofing construction at the 338 E Lemon St was not complete in June 2019 when the First and Second Opinion Letters were generated and, furthermore, the construction was materially not in compliance with the Florida Building Code.

9. 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.”

10. By signing and sealing the First and Second Opinion Letters when the conclusions contained therein were materially erroneous and not based upon the actual state of the construction of the renovation project at 338 E Lemon St, Respondent failed to utilize due care in performing in an engineering capacity and failed to have due regard for acceptable standards of engineering principles.

11. 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 23 day of March, 2020.

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 11, 2020

PCP Members: MATTHEWS, FLEMING & DRURY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Clayton G. Bristol, P.E. at 2216 Krista Lane, Brandon, Florida 33511, by certified mail and First Class U. S. Mail, on the 24 of March, 2020.


Rebecca Valentine, Paralegal