STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v.

RICHARD M. TOMMELL, P.E.,

Respondent,

FEMC Case No. 2020009259

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 12, 2021 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 17 day of August, 2021.

FLORIDA BOARD OF PROFESSIONAL ENGINEERS
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 and email Richard Tommell, P.E. by service upon his attorney of record: Clayton Osteen, Esquire at 150 South Monroe Street, Suite 405, Tallahassee, Florida 32301 and costeen@ausley.com this 20 day of August, 2021.

Rebecca Valentine,
Paralegal
FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v. FEMC Case No. 2020009259

RICHARD M. TOMMELL, P.E.,

Respondent,

_____________________/

SETTLEMENT STIPULATION

RICHARD TOMMELL, 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, RICHARD TOMMELL, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 61859.

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 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.

4. Respondent shall pay an ADMINISTRATIVE FINE of $1,000.00 and COSTS of $4,425.80 to the Board within One (1) year of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. The Fine and Costs shall be paid in Quarterly Payments of $1,356.45. Payments can made early.

5. a. Respondent’s license shall be RESTRICTED from practicing any electrical engineering until such time that he completes, passes and submits proof of passing the

b. Subsequent to taking and passing the NCEES Electrical Examination, Respondent shall submit to the Board a detailed list of all completed Electrical Engineering projects (signed, sealed, and dated), by the Respondent for PROJECT REVIEW at six (6) and eighteen (18) month intervals from the date on which Respondent passes the examination. The projects shall include: all Electrical Engineering projects and reports signed and sealed by Respondent.

c. A FEMC Consultant will select two (2) projects from the submitted list for review. The Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultant. The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, rubber stamp 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 reviews cost exceed $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 Respondent. 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.
d. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 5b., above, the initial or, if applicable, the subsequent submission required by the terms of the project review 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, Respondent’s license will be placed on voluntary inactive status as defined in Section 455.227, Florida Statutes, by the Board, without any further necessity for action on the part of Respondent. Respondent’s license shall remain on such status, provided Respondent meets the requirements of Section 455.227, unless and until Respondent notifies the Board that he wishes to recommence practice and obtains Board authorization to reactivate his license under such terms of probation that the Board deems appropriate at that time.

e. Should the FEMC Consultant return a favorable report after reviewing the set of plans reviewed during the first project review, the requirements for the second project review may be waived. 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.

f. 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.

6. Respondent shall be placed on PROBATION for two (2) years from the date the Final Order adopting this Stipulation is filed with the Agency Clerk., with the following terms:
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

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.

c. Respondent shall submit to the Board a detailed list of all completed projects (signed, sealed, and dated), by the Respondent for **PROJECT REVIEW** at six (6) and eighteen (18) month intervals from the date the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects shall include: all completed structural and mechanical (plumbing) engineering projects and reports signed and sealed by Respondent.

d. Due to the variety of engineering disciplines for which projects need to be reviewed, **two FEMC Consultants** will select two (2) projects each from each of the two disciplines, structural, and mechanical (plumbing), contained in the list. One FEMC Consultant will review the structural projects and a different FEMC Consultant will review the mechanical (plumbing) disciplines. **The 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, rubber stamp seal. Sealed project review materials may be copied and submitted electronically, if desired by the Respondent. Respondent is also responsible for the Consultants’ fees for reviewing the projects. Since there are two consultants involved in these project reviews, Respondent shall remit payment in two separate checks (or money orders) in the amount of $2,000.00, made payable in the name of each of the Board’s Consultants who will be reviewing the projects. These payments shall be submitted at the time that the project lists are submitted to FEMC. Respondent will be advised prior to submitting the projects lists and payment to whom to make the checks or money orders payable. In the event that the project review costs exceed $2,000.00 by either consultant, then the
Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than $2,000.00 by either consultant, then the unused portion will be refunded to Respondent. Should either 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.

e. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 6c., above, the initial or, if applicable, the subsequent submission required by the terms of 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, Respondent's license will be placed on voluntary inactive status as defined in Section 455.227, Florida Statutes, by the Board, without any further necessity for action on the part of Respondent. Respondent's license shall remain on such status, provided Respondent meets the requirements of Section 455.227, unless and until Respondent notifies the Board that he wishes to recommence practice and obtains Board authorization to reactivate his license under such terms of probation that the Board deems appropriate at that time.

f. 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.
g. Should a FEMC Consultant return a favorable report on either mechanical (plumbing) or structural or both after reviewing the set of plans for the mechanical (plumbing) or structural as applicable reviewed during the first project review, the requirements for the second project review for mechanical (plumbing) or structural or both may be waived. 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.

7. 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.

Richard Tommell, P.E.,
Respondent
Case No. 2020009259
Dated: __________

APPROVED this _______________ day of __________, 2021
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

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

v.

RICHARD M. TOMMELL, P.E.,

Respondent,

FEMC Case No. 2020009259

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 RICHARD M. TOMMELL, 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 61859. Respondent’s last known address is 2752 Northridge Drive East, Clearwater, Florida 33761.
3. Respondent signed and sealed structural, electrical and mechanical (plumbing) engineering drawings for a standard residential swimming pool and spa at the home of Deborah Hennessy, 1304 Lily Court, Tarpon Springs, FL (Hennessy Project). These drawings were submitted to the Tarpon Springs Building Department. The signed and sealed plans were not dated.

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.”


6. 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.”

7. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the Hennessy 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.
8. Respondent acted as the Structural, Electrical and Mechanical (Plumbing) Engineer for the Hennessy Project as that term is defined in Rules 61G15-30.002(1), 61G15-31.002(1), 61G15-33.002(1), and 61G15-34.002(1) Fla. Admin. Code. As such, all engineering documents prepared, signed, sealed and dated by Respondent must contain the information set out in Rule 61G15-30.003(1): When prepared for inclusion with an application for a general building permit, the Documents shall meet all Engineer's Responsibility Rules, set forth in Chapter 61G15-31, 61G15-33, and 61G15-34 F.A.C., and be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the Florida Building Code [FBC], adopted in Section 553.73, F.S., and applicable laws, ordinances, rules and regulations, as determined by the Agency Having Jurisdiction (AHJ). The Documents shall include:

(a) Information that provides material specifications required for the safe operation of the system that is a result of engineering calculations, knowledge and experience.

(b) If the Engineering Documents are intended to comply with requirements of any edition of federal, state, municipal, or county standards, codes, ordinances, laws, or rules, other than those currently in effect, the Engineering Documents must clearly state the edition and effective dates the Documents are intended to conform to

(c) Information, as determined by the Engineer of Record, needed for the safe and efficient operation of the system.

(d) List engineering design criteria; reference project specific studies, reports, and delegated Engineering Documents.
(e) Identify clearly elements of the design that vary from the governing standards and depict/identify the alternate method used to ensure compliance with the stated purpose of these Responsibility Rules.

9. The Florida Building Code (2017) – Building (FBC-B) Section 107.2.1 “Information on construction documents” states: “Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations,...” FBC-B Section 2701.1 “Scope” states: “This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the NFPA 70, National Electrical Code (NEC).” FBC-B. FBC-B Section 2901.1 “Scope,” states: Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the Florida Building Code, Plumbing (FBC-P).

10. Rule 61G15-33.001 “Responsibility Rules of Professional Engineers Concerning the Design of Electrical Systems” “General Responsibility” states in material part that: “Electrical Engineering documents shall be prepared in accordance with applicable technology and with the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the electrical systems project. Electrical Engineering documents shall demonstrate compliance with the requirements of the applicable codes and standards....”

11. Rule 61G15-33.003(2) “Design of Power Systems,” requires in material part that “Electrical Engineering Documents applicable to the design of electrical power systems must include the following information, if applicable to the particular project:

(a) Power distribution riser diagram.
(b) Conductor sizes (AWG or kcmil) and insulation type, or cable assemblies characteristics (AWG = American Wire Gauge; kcmil = One Thousand Circular Mils).

(c) Circuit interrupting devices, ratings and fault current interrupting capability.

(e) Main and distribution equipment, control devices, locations and ratings.

(f) Circuitry of all outlets, equipment and devices.

(g) Feeder and service capacity calculations.

(h) Electrical legends.

(k) Engineering Documents applicable to power systems filed for public record shall also contain information required by the Florida Building Code, . . .

12. Rule 61G15-33.004(2) “Design of Lighting Systems,” requires that Electrical Engineering Documents for lighting systems must include the following information, if applicable to the particular project: (c) Equipment Legend. (d) Lighting control and circuiting.

13. Rule 61G15-34.001 “General Responsibility” states that Mechanical Engineering Documents shall “be prepared in accordance with the applicable technology and with the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the mechanical systems project. Mechanical Engineering documents shall demonstrate compliance with the requirements of the applicable codes and standards . . . .”

14. Rule 61G15-34.007(2) “Design of Plumbing Systems,” requires that “Mechanical Engineering Documents applicable to Plumbing Systems shall when applicable, include but are not limited to the following: (a) Equipment schedules for all plumbing fixtures, . . . pumps, . . . (c) Potable Water isometric diagrams with pipe sizes . . . (f) Cold water, piping layouts. (i) List of ASHRAE, ASME, ASPE, ANSI and other applicable codes, design standards and requirements.
(I) All plumbing fixtures, valves, pumps, tanks, accessories, specialties, enclosures, and such equipment shall be described and located on the drawings.

15. Rule 61G15-31.001 “General Responsibility” states: The Engineer of Record is responsible for all structural aspects of the design of the structure including the design of all of the structure’s systems and components. As noted herein the engineer of record may delegate responsibility for the design of a system or component part of the structure to a delegated engineer. In either case the structural engineering documents shall address, as a minimum, the items noted in the following subsections covering specific structural systems or components. The Engineer of Record’s structural engineering documents shall identify delegated systems and components. Both the Engineer of Record for the structure and the delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules, Chapter 61G15-30, F.A.C., and with the requirements of the more specific structural responsibility rules contained herein. The Engineer of Record for the Structural System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance with his written instructions in accordance with Rule 61G15-30.005, F.A.C. When information collected from the engineer or the engineer’s authorized representative from a site visit is part of the engineer’s deliberative process, the engineer is responsible for the accuracy of such information.

16. Rule 61G15-31.002(5) “Structural Engineering Documents” states: The structural drawings, specifications and other documents setting forth the overall design and requirements for the construction, alteration, repair, removal, demolition, arrangement and/or use of the structure, prepared by and signed and sealed by the engineer of record for the structure. Structural engineering documents shall identify the project and specify design criteria both for the overall
structure and for structural components and structural systems. The drawings shall identify the
nature, magnitude and location of all design loads to be imposed on the structure. The structural
engineering documents shall provide construction requirements to indicate the nature and character
of the work and to describe, detail, label and define the structure's components, systems, materials,
assemblies, and equipment.

ELECTRICAL DOCUMENTS

17. Respondent's Electrical Engineering Design Documents for the Hennessy Project
are materially deficient as follows:

(a) The design drawing contains no electrical power source for the pool/spa
equipment, no riser diagram, no circuit interrupting devices, no conductor sizes or circuitry, no
main and distribution equipment, no electrical legends, and no load calculations. These omissions
constitute violations of Rule 61G15-33.003(2)(a), (b), (c), (e), (f), (g) and (h) and Rule 61G15-
33.004(2)(c) and (d).

(b) The design drawing does not contain information as required by the FBC.
FBC-B Section 107.3.5 “Minimum plan review criteria for buildings” states: The examination of
the documents by the building official shall include the following minimum criteria and
documents: Electrical: 1. Electrical wiring, services, feeders and branch circuits, overcurrent
protection, wiring methods and materials, . . . 2. Equipment. 7. Load calculations. The absence
of these FBC-B requirements, overcurrent protection and branch circuits, and electrical load
calculations constitutes a violation of Rule 61G15-33.003(2)(k).

MECHANICAL (PLUMBING) DOCUMENTS

18. Respondent’s Mechanical (Plumbing) Engineering Design Documents for the
Hennessy Project are materially deficient as follows: (a) There is no equipment schedule to
specify plumbing fixtures and/or pumps, no potable water isometric diagrams, no piping layouts, no list of applicable codes, and no specifications and/or descriptions of plumbing fixtures, valves, pumps, and other plumbing equipment. The absence of these requirements constitutes a violation of Rule 61G15-34.007(2)(a), (c), (f), (i) and (l).

**STRUCTURAL DOCUMENTS**

19. Respondent’s Structural Engineering Design Documents for the Hennessy Project are materially deficient as follows:

**Sheet with General Notes and General Pool Plan**

(a) The calculations provided for review do not reflect the design provided on the sealed and signed document.

(b) The specified strength or grade of reinforcement is not shown in accordance with Section 1901.5 of the 2017 FBC. The grade of steel for the retaining wall in the same set of plans is shown as grade 40, however, the calculations provided for the pool structure show grade 60 steel. If grade 40 steel was used for the pool shell, the concrete pool wall is under reinforced.

(c) There is a note “Structural subject to suitable soil conditions” on this sheet. In order for the pool contractor to know what suitable soil conditions are, the soil design assumptions must be in the drawings in accordance with 2017 FBC 1603.1.6.

**Retaining Wall Sheet**

(d) Calculation spreadsheet indicates use of Grade 60 steel. The drawings and submitted calculations show the steel grade as 40.

(e) Geotechnical information in accordance with 2017 FBC 1603.1.6 ar not shown on the drawings.
The retaining wall calculations do not reflect the design of the retaining wall on the signed and sealed drawings as noted below.

1. The "c" dimension (the dimension for the heel of the footing) is inconsistent between the provided calculations, the provided spreadsheet, and the signed and sealed document:

   a. For the 3'-0" tall retaining wall the heel of the footing is shown as 16" in the calculations, 15" on the spreadsheet, and 12" on the signed and sealed document.

   b. For the 4'-0" tall retaining wall the heel of the footing is shown as 22" in the calculations, 21" on the spreadsheet, and 17" on the signed and sealed document.

   c. For the 5'-0" tall retaining wall the heel of the footing is shown as 29.4" in the calculations, 26" on the spreadsheet, and 21" on the signed and sealed document.

   d. For the 6'-0" tall retaining wall the heel of the footing is shown as 36" in the calculations, 31" on the spreadsheet, and 25" on the signed and sealed document.

   e. For the 7'-0" tall retaining wall the heel of the footing is shown as 42" in the calculations, 35" on the spreadsheet, and 30" on the signed and sealed document.

   f. For the 8'-0" tall retaining wall the heel of the footing is shown as 49.6" in the calculations, 40" on the spreadsheet, and 34" on the signed and sealed document.
2. The thickness of the footing between the calculations and the stamped and sign drawings are inconsistent. The footing thickness between the provided spreadsheet and signed and sealed drawings match.

   a. For the 3'-0" tall retaining wall the footing thickness is 11" in the drawings, and 12" in the calculations.

   b. For the 5'-0" tall retaining wall the footing thickness is 13" in the drawings, and 12" in the calculations.

   c. For the 6'-0" tall retaining wall the footing thickness is 14" in the drawings, and 12" in the calculations.

   d. For the 7'-0" tall retaining wall the footing thickness is 15" in the drawings, and 12" in the calculations.

   e. For the 8'-0" tall retaining wall the footing thickness is 16" in the drawings, and 12" in the calculations.

3. The "b" dimension (the dimension for the toe of the footing): The toe dimension between the provided calculations and the signed and sealed document are inconsistent. The toe dimension between the provided spreadsheet and signed and sealed drawings match.

   a. For the 4'-0" tall retaining wall the toe of the footing is shown as 12" in the calculations, and 9" on the signed and sealed document.

4. The thickness of the walls shown in the signed and sealed document is inconsistent with both the submitted calculations as well as the submitted spreadsheet.

   a. For the 3'-0" tall retaining wall the wall thickness is shown as 11" in the signed and sealed document, and 8" in the calculations and spreadsheet.
b. For the 4'-0" tall retaining wall the wall thickness is shown as 12" in the signed and sealed document, and 8" in the calculations and spreadsheet.

c. For the 5'-0" tall retaining wall the wall thickness is shown as 13" in the signed and sealed document, and 8" in the calculations and spreadsheet.

d. For the 6'-0" tall retaining wall the wall thickness is shown as 14" in the signed and sealed document, and 8" in the calculations and spreadsheet.

e. For the 7'-0" tall retaining wall the wall thickness is shown as 15" in the signed and sealed document, 8" in the calculations, and 10" in the spreadsheet.

f. For the 8'-0" tall retaining wall the wall thickness is shown as 16" in the signed and sealed document, and 8" in the calculations and 10" in the spreadsheet.

5. The retaining wall footing reinforcement is inconsistent between the signed and sealed documents, the submitted calculations, and the submitted spreadsheet. The location of the footing reinforcement is not dimensioned, so it is unknown whether it is top reinforcement, bottom reinforcement, or if the reinforcement is centered in the footing. The location of the footing reinforcing is structurally very important. Concrete is poor in tension and good in compression. Steel is good in tension, so steel reinforcing is placed in those locations where concrete goes into tension. In the case of a retaining wall footing, the top of the heel of the footing goes into tension as the soil pushes against the back of the wall and the weight of the soil on the heel tries to prevent the rotation of the wall. The bottom of the toe of the footing goes into tension as the soil pushes up on the bottom of the toe as it tries to prevent rotation of the wall. These top and bottom bars are placed perpendicular to the length of the wall. In the signed and sealed document, Mr.
Tommell shows # 5 longitudinal bars (bars parallel to the length of the footing) at 9” on center. These are not considered top bars resisting bending in the top of the heel of the footing.

a. For the 3’-0” tall wall, the signed and sealed document shows one layer of #5’s at 24” on center. The calculations indicate #5’s at 9” on center top steel, and #5’s at 24” on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5’s at 16” on center.

b. For the 4’-0” tall wall, the signed and sealed document shows one layer of #5’s at 24” on center. The calculations indicate #5’s at 9” on center top steel, and #5’s at 24” on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5’s at 14” on center.

c. For the 5’-0” tall wall, the signed and sealed document shows one layer of #5’s at 18” on center. The calculations indicate #5’s at 9” on center top steel, and #5’s at 24” on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5’s at 13” on center.

d. For the 6’-0” tall wall, the signed and sealed document shows one layer of #5’s at 18” on center. The calculations indicate #5’s at 9” on center top steel, and #5’s at 24” on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5’s at 12” on center.
e. For the 7'-0" tall wall, the signed and sealed document shows one layer of #5's at 18" on center. The calculations indicate #5's at 9" on center top steel, and #5's at 24" on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5's at 11" on center.

f. For the 8'-0" tall wall, the signed and sealed document shows one layer of #5's at 18" on center. The calculations indicate #5's at 9" on center top steel, and #5's at 24" on center bottom steel. The spreadsheet also does not indicate the location of the reinforcing within the footing and has #5's at 11" on center.

6. The wall vertical reinforcing is inconsistent between the signed and sealed documents, the calculations, and the spreadsheet.

   a. For the 3'-0" tall wall the vertical reinforcing is shown as #5's at 48" on center on the signed and sealed documents, #5's at 18" on center in the calculations, and #5's at 22" on center in the spreadsheet.

   b. For the 4'-0" tall wall the vertical reinforcing is shown as #5's at 36" on center on the signed and sealed documents, #5's at 18" on center in the calculations, and #5's at 22" on center in the spreadsheet.

   c. For the 5'-0" tall wall the vertical reinforcing is shown as #5's at 24" on center on the signed and sealed documents, #5's at 18" on center in the calculations, and #5's at 18" on center in the spreadsheet.

   d. For the 6'-0" tall wall the vertical reinforcing is shown as #5's at 18" on center on the signed and sealed documents, #5's at 12" on center in the calculations, and #5's at 10" on center in the spreadsheet.
e. For the 7'-0" tall wall the vertical reinforcing is shown as #5's at 16'' on center on the signed and sealed documents, #5's at 8" on center in the calculations, and #5's at 11" on center in the spreadsheet.

f. For the 8'-0" tall wall the vertical reinforcing is shown as #5's at 12" on center on the signed and sealed documents, #5's at 5.5" on center in the calculations, and #5's at 8" on center in the spreadsheet.

FAILURE TO DATE SEALED AND SIGNED DOCUMENTS

20. Respondent’s drawings for the Hennessy Project were sealed and signed, were final and were filed for public record but were not dated.

21. Section 471.025(1), Florida Statutes, provides in material part: “All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and being filed for public record and all final documents provided to the owner or the owner’s representative shall be signed by the licensee, dated, and sealed with said seal.” Rule 61G15-23.001(1), Florida Administrative Code, provides in material part: “A professional engineer shall sign, date and seal: (a) All final plans, prints, specifications, reports, or other documents prepared or issued by the licensee and being filed for public record; (b) All final documents provided to the owner or the owner’s representative.” Section 471.033(1)(a), Florida Statutes, provides: “(1)The following acts constitute grounds for which the disciplinary actions ... may be taken: (a) Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, or any other provision of this chapter or rule of the board or department.”

COUNT I

ELECTRICAL DESIGN DOCUMENTS
22. Petitioner realleges and incorporates Paragraphs One (1) through Twelve (12), and Seventeen (17) as if fully set forth in this Count One.

22. Respondent's electrical engineering drawings for the Hennessy Project contain deficiencies including; but not limited to, those set forth in Paragraph Seventeen (17). 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 electrical 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 Hennessy Project and (2) the final engineering documents for the Hennessy Project were not issued in compliance with acceptable engineering principles.

23. 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

MECHANICAL (PLUMBING) DESIGN DOCUMENTS

24. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Thirteen (13), Fourteen (14) and Eighteen (18) as if fully set forth in this Count Two.

25. Respondent's mechanical (Plumbing) engineering drawings for the Hennessy Project contain deficiencies including; but not limited to, those set forth in Paragraph Eighteen (18). 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 mechanical (Plumbing) 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 Hennessy Project and (2) the final engineering documents for the Hennessy Project were not issued in compliance with acceptable engineering principles.

26. 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 III
STRUCTURAL ENGINEERING DOCUMENTS

27. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Fifteen (15), Sixteen (16) and Nineteen (19) as if fully set forth in this Count Three.

28. Respondent’s structural engineering drawings for the Hennessy Project contain deficiencies including; but not limited to, those set forth in Paragraph Nineteen (19). 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 structural 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 Hennessy Project and (2) the final engineering documents for the Hennessy Project were not issued in compliance with acceptable engineering principles.

29. 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 IV
FAILURE TO DATE DOCUMENTS

FBPE vs. Richard M. Tommell, P.E., Case No. 2020009259
30. Petitioner realleges and incorporates Paragraphs One (1) through Nine (9), Twenty (20) and Twenty-One (21) as if fully set forth in this Count Four.

31. Respondent drawings for the Hennessy Project are sealed and signed but not dated. As a result, Respondent violated Section 471.033(1)(a), Florida Statutes, by violating Section 471.025(1), Florida Statutes, and Rule 61G15-23.001.

32. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(a), Florida Statutes, by violating Section 471.025(1), Florida Statutes, and Rule 61G15-23.001 by not dating signed and sealed documents filed for public record.

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 22 day of March, 2021.

Zana Raybon
Executive Director

BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation

FBPE vs. Richard M. Tomnell, P.E., Case No. 2020009259
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Richard Tommell, P.E. by service upon his attorney of record: Clayton Osteen, Esquire at 150 South Monroe Street, Suite 405, Tallahassee, Florida 32301, by certified mail and First Class U. S. Mail, on the 22nd of March 2021.

Rebecca Valentine
Rebecca Valentine, Paralegal