

FILED
Florida Engineers
Management Corporation
8/20/2021 Clerk: Rebecca Valentine

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK Brandon Nichols
Date 8/20/2021
File # 2021-05927

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2020044838

CAREY L. WILKINSON, P.E.,

Respondent,

_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 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.

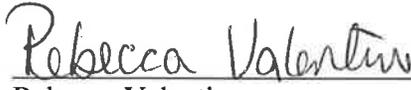
FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For C. Kevin Fleming, P.E., CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing filed *Final Order Adopting Settlement Stipulation* has been furnished by U.S. First Class Mail and email Carey L. Wilkinson, P.E. by service upon his attorney of record: Julie Ball, Esquire at Hardin & Ball, P.E., P.O. Box 3604, Lakeland, Florida 33802 and jball@hardinpalaw.com this 20 day of August, 2021.



Rebecca Valentine,
Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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FEMC Case No. 2020044838

CAREY L. WILKINSON, P.E.,

Respondent,

SETTLEMENT STIPULATION

CAREY L. WILKINSON, 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, CAREY L. WILKINSON, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 80472.
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
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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 \$5,025.76 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 \$1506.43 with the first payment due Ninety (90) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. Payments can made early.

4. 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.

5. 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

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.

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 structural projects and reports signed and sealed by Respondent.**

d. **A FEMC Consultant** will select two (2) projects from each submitted list for review. **Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultants.** The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, seal. Sealed project review materials may be copied and submitted electronically, if desired by the Respondent. Respondent is also responsible for the Consultant's fees for reviewing the projects, and shall remit payment in the amount of \$2,000.00 by check or money order made payable in the name of the Board's Consultant at the time that the project lists are submitted to FEMC. In the event that the project review cost exceeds \$2,000.00, then the Respondent is responsible for the deficiency. In the event that the cost of the reviews is less than \$2,000.00, then the unused portion will be refunded to. Should the Consultant return an unfavorable report concerning Respondent's projects, that report shall be submitted to the Probable Cause Panel for determination of whether additional disciplinary proceedings should be initiated.

e. If the Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 5c., 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 FEMC Consultant return a favorable report after reviewing the plans submitted during the first year of probation, the requirements for the second year of probation may be waived and the probation may be terminated. A "favorable report" is herein defined as a report that, in the sole opinion of the Consultant with the concurrence of the Board, finds that the plans reviewed were considered to be free of any material deficiencies.

g. 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 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.

7. 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.

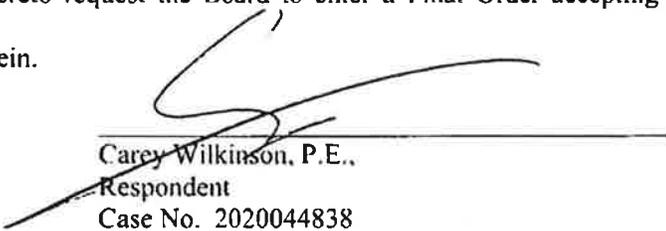
8. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to

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.

9. 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.

10. 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.


Carey Wilkinson, P.E.,
Respondent
Case No. 2020044838

Dated: 4/15/21

APPROVED this 28 day of April, 2021.

Zana Raybon, Executive Director
Florida Board of Professional Engineers


BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers
Management Corporation
3/22/2021 Clerk: Rebecca Valentine

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date **3/22/2021**
File #

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

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FEMC Case No. 2020044838

CAREY L. WILKINSON, 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 CAREY L. WILKINSON, 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 80472. Respondent's last known address is 1342 Sunnydell Farm Lane, Lakeland, Florida 33809.

3. 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."

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

5. 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."

6. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the Villages at Crystal Beach", Winter Haven, Florida (Villages Project) and 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.

7. Respondent acted as the Structural Engineer of Record as that term is defined in Rules 61G15-30.002(1), 61G15-31.002(1), Fla. Admin. Code for a design of concrete masonry

unit (cmu) screen walls and an aluminum fence in “Villages at Crystal Beach”, Winter Haven, Florida (Villages Project). 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, 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) List Federal, State, Municipal, and County standards, codes, ordinances, laws, and rules, with their effective dates, that the Engineering 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.

8. 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.

9. 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.

10. Section 471.033(1)(a), Florida Statutes, provides that a professional engineer is subject to discipline for “[v]iolating ... [a] rule of the [B]oard...”

11. Rule 61G15-23.001 (4) (a) 1 provides as follows in material part: (4) Additional Requirements for Plans or Prints, Engineering Specifications and Calculations, and Engineering Reports or Other Documents. When an engineer signs, dates and seals any of the following types of documents plans or prints under the provisions of Section 471.025, F.S., and subsection (1) of this rule, the following additional information must be included: (a) Plans and Prints. Every sheet within the plans and prints must be signed, dated and sealed by the professional engineer in responsible charge. 1. A title block shall be used on each sheet of plans or prints and shall contain the printed name, address, and license number of the engineer who has signed, dated and sealed the plans or prints.

12. The Villages Project design document listed in Paragraph Seven (7) herein, constituting plans does not contain the information required by Rule 61G15-23.001 (4) (a) 1.

13. Respondent’s Structural Engineering Design Document for the Villages Project are materially deficient as follows:

(A) No wind design data was provided on Mr. Wilkinson’s drawing as required by Section 1603.1.4 of the 2017 Florida Building Code.

(B) No geotechnical design data was provided on Mr. Wilkinson’s Drawing as required by Section 1603.1.6 of the 2017 Florida Building Code.

(C) The following masonry design data was not provided on Mr. Wilkinson's drawing as required by Section 1.2.1 of ACI 530-13 (ACI 530-13 is referenced in Chapter 35 "Referenced Standards" of the 2017 Florida Building Code:

(1.) Name and date of issue of code and supplement to which the design conforms.

(2.) Loads used for the design of masonry structures.

(3.) Specified compressive strength of masonry.

(4.) Grade of reinforcement.

(5.) Wall control joint locations.

(D) The cmu wall reinforcing shown cannot develop in the 8" thick concrete footing with a compressive strength of 2500 psi.

(E) In accordance with ACE 318-14 Chapter 25.4.3" cover is required for a #5 bar in concrete poured against soil, only 2" is provided if the dowels are embedded 6" into an 8" thick footing, as shown on the drawings.

(F) No aluminum fence design information, to include member sizes, connections, material properties, foundation information, etc. was provided on Mr. Wilkinson's drawing. Without this information the fence cannot be designed or constructed.

(G) Respondent has failed to comply with Rule 61G15-30.005(1) which applies insofar as the aluminum fence design was to be completed using a delegated engineer's design. Rule 61G15-30.005(1) provides "An engineer of record who delegates a portion of his responsibility to a delegated engineer is obligated to communicate in writing his engineering requirements to the delegated engineer." In addition Respondent failed to

comply with Rule 61G15-30.005(2) which provides that “An engineer of record who delegates a portion of his design responsibility to a delegated engineer shall require submission of delegated engineering documents prepared by the delegated engineer and shall review those documents for compliance with his written engineering requirements and to confirm the following:

(a) That the delegated engineering documents have been prepared by an engineer.

(b) That the delegated engineering documents of the delegated engineer confirm with the intent of the engineer of record and meet the written criteria.

(c) That the effect of the delegated engineer’s work on the overall project generally conforms with the intent of the engineer of record.”

(H) Masonry walls are under reinforced for wind loading.

(I) Wall foundations are inadequate for wind loading.

COUNT I

STRUCTURAL ENGINEERING DOCUMENTS

14. Petitioner realleges and incorporates Paragraphs One (1) through Thirteen (13) as if fully set forth in this Count One.

15. Respondent’s structural engineering drawings for the Villages Project contain deficiencies including; but not limited to, those set forth in Paragraph Thirteen (13). 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 the Villages Project and (2) the final engineering documents for the Villages Project were not issued in compliance with acceptable engineering principles.

16. 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

FAILURE TO INCLUDE REQUIRED INFORMATION ON SEALED PLAN

17. Petitioner realleges and incorporates Paragraphs One (1) through Seven (7) and Ten (10) through Twelve (12), Twenty (20) as if fully set forth in this Count Two.

18. Respondent drawings for the Villages Project did not include a title block on each sheet of the plans or prints and did not contain the printed name, address, and license number of Respondent as required by Rule 61G15-23.001 (4) (a) 1. 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.

19. 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
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303
Florida Bar No. 212008
JR/rv
PCP DATE: March 10, 2021
PCP Members: MATTHEWS, ALBERGO & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Gary S. Bishop, P.E. at 6010 Jameson Circle, Pace, Florida 32571, by certified mail and First-Class U. S. Mail, on the 22 of March, 2021.


Rebecca Valentine, Paralegal