STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

Petitioner,

v. 

MARK A. DE StefANO, P.E.,

Respondent,

FEMC Case No. 2018024868

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

THIS CAUSE came before the Florida Board of Professional Engineers (hereinafter "the Board") pursuant to Section 120.57(4), Florida Statutes, at a duly noticed public meeting on October 14, 2021, via Zoom videoconference in Tallahassee, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as "Exhibit A to Final Order") entered 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 19 day of October, 2021.
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 to Respondent Mark DeStefano, P.E. by service upon his attorney of record: David Rankin, Esquire at 13000 N. Dale Mabry Hwy, Tampa, Florida 33618 and davidr@amptitle.com this ___ day of October___, 2021.

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

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v.

MARK A. DE STEFANO, P.E.,

Respondent,

FEMC Case No. 2018024868

MARK DE STEFANO, P.E. ("Respondent") and the Florida Board of Professional Engineers ("Board") by and through the Florida Engineers Management Corporation ("FEMC"), hereby stipulate and agree to the following joint stipulation and Final Order of the Board, incorporating this Stipulation in the above-styled manner.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed engineer in the State of Florida, having been issued license number PE 61657.

2. Respondent was charged by an Administrative Complaint ("Compliant") filed by FEMC, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. A true and correct copy of the filed Administrative Complaint is attached hereto and incorporated by reference as "Exhibit A to Settlement Stipulation".

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed engineer, admits that in such capacity he is subject to provisions of Chapters 455 and 471, Florida Statutes, and the jurisdiction of the Department of Business and Professional Regulations ("Agency"), FEMC, and the Board.
2. Respondent admits that the facts set forth in the Complaint, if proven, constitute violations of Chapters 455 and 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’s shall pay an ADMINISTRATIVE FINE of $1,000.00 and COSTS of $8,920.78 to the Board thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

4. Respondent’s license to practice engineering shall be REPRIMANDED.

5. Respondent shall APPEAR before the Board when this Stipulation is presented. Respondent must be prepared to discuss: how this situation occurred, what improvements and quality control measures Respondent plans to implement to improve Respondent’s work product, and how Respondent intends to prevent this circumstance from occurring in the future.

6. Respondent shall 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 INTERMEDIATE 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:

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 engineering 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 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.

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 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.

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 and effect until the Board issues a Final Order adopting this agreement.

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 the Stipulation. Furthermore, should this joint 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 Stipulation of Facts, Conclusions of Law, imposition of discipline and the Final Order of the Board incorporating said 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.

[Signature]
Mark DeStefano, P.E.
Respondent
Case No. 2018024868
Dated: 9/27/21

APPROVED this 1st day of October, 2021.

Zana Raybon, Executive Director
Florida Board of Professional Engineers

[Signature]
John Rimes (Oct 1, 2021 11:01 EDT)

BY: JOHN J. RIMES, III
Prosecuting Attorney
STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL ENGINEERS,

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MARK A. DE STEFANO, P.E.,

Respondent,

FEMC Case No. 2018024868

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 MARK A. DE STEFANO, 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 61657. Respondent’s last known address is 341 Interstate Boulevard, Sarasota, Florida 34240.
3. On June 12, 2017 (06/12/17 DOX), January 16, 2018 (01/16/18 DOX) and March 22, 2018 (03/22/18 DOX), Respondent signed and sealed structural engineering drawings that were used to construct a three-story residence in Longboat Key, Florida (Omsberg Project).

4. Respondent acted as the Structural Engineer of Record for the Omsberg Project as that term is defined in Rules 61G15-30.002(1), 61G15-31.002(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, 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.
5. 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 "failure 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 all engineering work 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. Rule 61G15-30.005 Delegation of Engineering Documents: Obligations of the Engineer of Record states: (1) 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. (2) 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 conform 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.

9. 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.

10. 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.

11. 61G15-31.005(1), Design of Structures Utilizing Precast and Prestressed Concrete Components states in material part: Structural engineering documents shall indicate the configuration of precast and prestressed components and shall include details of supports, anchors and connections for those components.

12. Rule 61G15-31.008 Design of Foundations states in material part: (1) The structural engineering documents shall designate the foundation capacity used as the basis of design and shall include data indicating the nature of the foundation and sub-grade material.

13. Respondent's Structural Engineering Design Documents for the Omsberg Project are materially deficient as follows:

(a) The 06/12/17 DOX and the 01/16/18 DOX omitted a statement of the foundation capacity used as the basis of the design. None of the documents include a reference to a soils report. These omissions constitute violations of Rules 61G15-30.003(1)(d), 61G15-31.008(1).

(b) All of the documents contain an incomplete and conflicting specification of the pile cap, P1. The drawing specifies a width and depth for the pile cap without specifying the length of the pile cap. These omissions constitute violations of Rules 61G15-30.003(1).

(c) The 06/12/17 DOX and the 01/16/18 DOX have several locations where the identification of the concrete beam has been omitted. These omissions constitute violations of Rules 61G15-30.003(1).
(d) The 06/12/17 DOX indicate a concrete beam, CB-1, near the driveway, shown in section L/STR-1.2, which is grossly underdesigned. This error constitutes a violation of Rule 61G15-30.003(1).

(e) The precast concrete slabs are not specified sufficiently for a delegated engineer to provide a compliant design. There are several precast slabs that should have had load diagrams provided for use by the delegated engineer in the structural engineering documents, including: precast slabs at the second level above the guest garage & driveway; precast slabs at the third level above the dining room & living room; precast slabs at the third level above bedrooms 1, 2 & 3. This is typical of all the structural documents. These errors and omissions constitute violations of Rules 61G15-30.005(1); 61G15-30.005(2); 61G15-31.002(5); 61G15-31.005(1).

(f) Concrete columns marked C4 and located at the master bedroom are shown at the roof level framing, sheet RF-1.0. The C4 columns bear onto the floor framing below. No connection detail is provided in the drawings that describes the connection of the concrete column to the floor framing below. This is typical of all the structural documents. These errors and omissions constitute violations of Rules 61G15-30.003(1); 61G15-31.005(1).

(g) Concrete beams at the second level have indecipherable specifications. This is typical of all the structural documents. These errors constitute a violation of Rule 61G15-30.003(1).

(h) The roof level framing plan, sheet RF-1.0 of the 06/12/17 DOX, has two locations at the trellis where the beam identifications have been omitted. This omission constitutes a violation of Rule 61G15-30.003(1).

(i) A trellis is identified in the roof plan without providing a specification for the structural performance of the trellis nor requiring the submittal of documents by a delegated
engineer. This is typical of all the structural documents. These errors and omissions constitute violations of Rules 61G15-30.003(3); 61G15-31.001.

(j) Section E/STR-1.1, of the 06/12/17 DOX, specifies a 14" diameter pile and refers to a piling diagram on FND-1.1. No piling diagram exists on FND-1.1. This omission constitutes a violation of Rule 61G15-30.003(1).

(k) Sections E/STR-1.1, I/STR-1.2 and L/STR-1.2 of the 06/12/17 DOX and the 01/16/18 DOX specify a maximum pile spacing of 12'-0". The pile dimension plan, as depicted on sheet FND-1.1 exceeds 12'-0" in many instances. This is a conflicting specification. These errors and omissions constitute a violation of Rule 61G15-30.003(1).

(l) A Coastal Construction Control Line (CCCL) is identified on the site plan (SITE-1.0) and the grading plan (SITE-1.1) of the 01/16/18 DOX and the 03/22/18 DOX documents. A note in the two-car garage area (FND-1.0 & ARCH-1.0) and section F/STR-1.1, discusses the requirements for structures seaward of the CCCL and references FBC, 2014, Section 3109. The requirements of Section 3109.4.2 have not been complied with in the structural engineering documents (breakaway walls not included in the design). These errors and omissions constitute a violation of Rule 61G15-30.003(1).

(m) A note in the 01/16/18 DOX and the 03/22/18 DOX documents in the elevator pit area of FND-1.0 refers to sheet STR-1.2 for sections and details. No sections or details at the elevator pit appear on STR-1.2. These omissions constitute a violation of Rule 61G15-30.003(1).

(n) The Auger Cast Conc Pile Detail, on sheet STR-1.2 of the 01/16/18 DOX, indicates that the pile should have 1-1/2" of concrete cover. FBC, 2014, references ACI 318-11, Building Code Requirements for Structural Concrete. ACI 318-11 requires a minimum of 3" of
cover for concrete cast against and permanently exposed to earth. The specified concrete cover is less than the minimum cover required by the code. This error and omission constitutes a violation of Rule 61G15-30.003(1).

(o) Section L/STR-1.2 of the 01/16/18 DOX documents, indicates an 8" x 34" concrete beam (above the driveway area) with an imprecise specification for the reinforcing for the beam and a reference to sheet STR-1.2 for details. No additional detail for the beam is provided on sheet STR-1.2. This error and omission constitutes a violation of Rule 61G15-30.003(1)

14. Respondent’s structural engineering drawings for the Omsberg 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 Omsberg Project and (2) the final engineering documents for the Omsberg Project were not issued in compliance with acceptable engineering principles.

15. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by being negligent 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 26th day of July, 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: July 14, 2021
PCP Members: MATTHEWS, ALBERGO & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Mark A. De Stefano, P.E. at 341 Interstate Boulevard, Sarasota, Florida 34240, by certified mail and First-Class U. S. Mail, on the 13th of August, 2021.

Rebecca Valentine, Paralegal