

FILED
Florida Engineers Management Corp
CLERK Rebecca Valentine
DATE 2/14/2023

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 2/14/2023
File #: 2023-01082

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2020011861, 2020019610

MARK V. RICHTER, P.E.,

Respondent,
_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

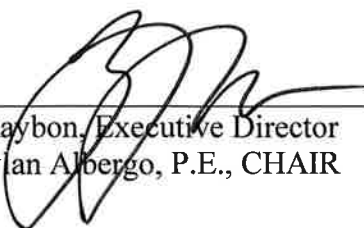
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on February 9, 2023 in Orlando, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between 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 13 day of February 2023.


FLORIDA BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
For Dylan Albergo, 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 Mark Richter, P.E. by service upon her attorney of record: Jeff Peters, Esquire at 3551 Blairstone Road, Suite 105, Tallahassee, Florida 32301 and jgpesq@msn.com, this 15 day of February, 2023.



Rebecca Valentine,
Paralegal

TATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2020011861, 2020019610

MARK V. RICHTER, P.E.,

Respondent,

_____ /

SETTLEMENT STIPULATION

MARK RICHTER, 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 Settlement Stipulation (“Stipulation”) and Final Order of the Board incorporating this Stipulation in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed professional engineer in the State of Florida, having been issued license number PE 56196.
2. Respondent was charged by Two Administrative Complaints filed by FEMC, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. Copies of the Administrative Complaints are 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 Florida Department of Business and Professional Regulation (“the Agency”), 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 in this case, an administrative complaint for failure to comply with said Final Order can automatically be opened against Respondent.
3. Respondent shall **APPEAR** before the Board when this Stipulation is presented to explain how this situation occurred and what plans have been formulated and actions put in place to prevent this circumstance from occurring in the future.
4. Respondent shall pay an **ADMINISTRATIVE FINE** of \$1,000.00 and **ADMINISTRATIVE COSTS** of \$1,612.85 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. .
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 **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 engineering projects and reports signed and sealed by Respondent.**

d. **A FEMC Consultant** will select two (2) projects from the 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 7c., 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 Consultants both return a favorable reports after reviewing the sets of plans reviewed 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.

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.




Mark Richter, P.E.,
Respondent
Case No: 2020011861, 2020019610

Dated: DEC 28, 2022

APPROVED this 10 day of January, 2023.

Zana Raybon, Executive Director
Florida Board of Professional Engineers



BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers Management Corp
CLERK Rebecca Valento
DATE 7/29/2022

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: Evette Lawson-Proctor
Date: 7/29/2022
File #:

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2020011861

MARK V. RICHTER, 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 MARK V. RICHTER, 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 56196. 1502 Busch Boulevard, Suite C, Tampa, Florida 33612

3. In 2018 a series of sinkholes opened, and corresponding ground cover collapses occurred between the homes located at 17086 SE 79th McLawren Terrace (17086 Project) and 17092 SE 79th McLawren Terrace (17092 Project), The Villages, Florida. The impact of these sinkholes included the loss of a storm drainpipe running between the two homes, significant undermining of the two homes and resulting structural and non-structural damage to both homes.

4. During the period encompassing November 2018 through February 2019 Respondent signed, sealed, and dated engineering documents, including foundation stabilization reports and plans and geotechnical reports for the 17086 Project and the 17092 Project. In December 2018 and January 2019, Marion County issued permits for construction for the 17092 Project and the 17086 Project based upon Respondent's engineering documents.

5. Respondent did not retain copies of the sealed and signed documents for the 17086 Project and the 17092 Project for Three (3) years as required by Rule 61G15-30.009.

6. Rule 61G15-30.009 "Retention of Engineering Documents" provides as follows: "[a]t least one copy of all documents displaying the licensee's signature, seal, which is legible to the reader, date and all related calculations shall be retained by the licensee or the licensee's employer for a minimum of three years from the date the documents were sealed. These documents shall be maintained in hardcopy or electronic format."

7. 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..."

8. 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.”

9. 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.

10. 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.”

11. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the 17086 Project and the 17092 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.

12. Respondent acted as the engineer of record for the 17086 Project and the 17092 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) and (4):

(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.

(4) Engineering Documents shall be legible and clearly define and delineate the work in the project.

13. 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.

14. Rule 61G15-31.008 “Design of Foundations” provides:

(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.

(2) Site and sub-grade preparation requirements, necessary to provide the foundation capacity, shall be specified in the structural engineering document(s).

(3) The foundation capacity and site preparation requirements shall be determined on the basis of scientific analysis utilizing investigations, tests or studies conducted for or provided by the engineer of record for the structure or by a licensed professional engineer, in accordance with code procedures.

(4) The engineer of record is responsible for the design of foundation components and shall take into account anticipated loads and load paths along with the evaluation of any existing structural conditions.

17086 Project

15. Respondent’s engineering documents for the 17086 Project were materially deficient as set out in Paragraphs 16-22:

16. The Subsurface Review Report (17086 Report) failed to properly assess the impact of the sinkhole on the soils acting to support the structure. As such, the information yielded by Respondent’s testing was unreliable and irrelevant to the design of an adequate foundation stabilization plan. Furthermore, the 17086 Report recommended that the soils found during the boring be remediated using micro piles. However, micro piles have no impact on or ability to improve or “remediate” underlying soils. Therefore, because it is not possible to remediate soils using micro piles.

17. The 17086 Remediation Plan (17086 Plan) was deficient insofar as:

- (1) None of the door or window openings were identified or dimensioned;
- (2) The micro piles were shown to be spaced well in excess of six (6) feet apart. Exact distances are not known because the 17086 Plan failed to provide any dimensions. It was however estimated that the spacing was as much as twenty-five (25) feet apart;
- (3) The micro piles shown adjacent to the structure's corners were spaced far more than two (2) feet away. Exact distances are not known because the 17086 Plan failed to provide any dimensions;
- (4) Based on a review of the floor plan shown on this sheet juxtaposed to the floor plan found within the Andreyev Engineering geotechnical findings report, one of the micro piles appears to be placed within the rear sliding glass door opening;
- (5) While the legend on Sheet 1 of the 17086 Plan sheets identified "UNDERPINNING PIER" and "UNDERPINNING PIER WITH EXTENDED BRACKET OR SPREADER BEAM", the 17086 Plan only utilized "UNDERPINNING PIER.";
- (6) The 17086 Plan sheets failed to provide any information on the type, configuration, or dimensions of the foundation that the micro piles were to attach to;
- (7) The 17086 Plan sheets failed to specify the design criteria for the micro piles and corresponding structural systems;
- (8) The 17086 Plan sheets failed to identify the nature, magnitude, and location of all design loads to be imposed on the micro piles and/or corresponding structural systems;
- (9) The 17086 Plan sheets failed to address or call for any remediation of the sinkhole conditions that were known to exist;
- (10) The 17086 Plan sheets failed to address or call for any remediation of the near surface soils beneath the structure and its foundations that were known to have lost compaction;
- (11) The 17086 Plan sheets failed to address or call for the repair of the damaged interior floor slabs that were known to be displaced and damaged;
- (12) The 17086 Plan sheets failed to address or call for the repair of the damaged exterior load bearing walls that were known to be structurally compromised.
- (13) The plan sheets failed to address or call for the for the evaluation or repair of any damaged roof structure components or systems;

(14) The micro pile system depicted on the plan sheets is wholly inadequate and incapable of supporting the structure to prevent differential displacement as near surface soils recompact or worse yet, should the sinkhole reactivate beneath the structure.

18. The January 15, 2019, Foundation Stabilization Plan letter (17086 Letter) was materially deficient as follows:

(1) The Letter is misleading in that the site could not be stabilized until the known sinkhole conditions were remediated and Respondent chose not to mandate such a remediation of the site;

(2) Despite Respondent's statement in the Letter the design contained within the stabilization program in the Letter did not comply with Florida Building Code 6th Edition and Florida Building Code 6th Edition - Existing Structures."

19. On February 22, 2019, Respondent signed, sealed, and issued a Foundation Stabilization System Installation Report (As-built Installation Report). The As-built Installation Report certifies that the stabilization system was installed as per the 17086 Plan. In fact, the contractor's completion report shows that significant differences existed between the as-built conditions and the 17086 Plan. These changes were not supported by any calculations or analysis of any kind was performed to account for and/or justify these changes and authorize even larger sections of exterior load bearing walls to remain unsupported that existed in the 17086 Plan.

20. On August 14, 2019, Respondent signed, sealed, and issued a certification (17086 Certification) in response to Marion County's Notice of Unsafe Structure(s) Abatement & Abandonment letter regarding 17086. The 17086 Certification states "In my professional opinion, the structure(s) located at the above listed address is not in imminent danger of collapse and thereby does not pose a safety hazard nor should it be classified as an unsafe structure." Insofar as, Respondent chose not to address or remediate the known sinkhole condition and the Respondent's micro pile design inadequate and incapable of supporting the structure, the statements made, and

opinions expressed in the 17086 Certification were not based on sound engineering principals or judgement and contained false and misleading statements.

21. On February 27, 2020, Respondent signed, sealed, and issued a GPR Report Summation letter regarding 17086. The PFS report indicated that chemical grout was injected through 18 points along the left side and a portion of the left rear interior of the structure. But the locations and extents of this shallow grouting did not cover the full extent of the anomalies (loose and/or missing soils). Further, Respondent's claim that the anomalies report by GeoView were the result of pinning and chemical grouting activities is unjustified given the location of the anomalies and the fact that they extended well beyond the limits of the pinning and grouting activities. Respondent failed to address the known sinkhole conditions, which when combined with the unaddressed anomalies beneath the structure, served to endanger the public.

22. On March 16, 2020, Respondent signed, sealed, and issued a issued a Foundation Repair - Underpinning & Chemical Grout Injection - Site & Structure Review letter regarding 17086. The letter stated that "Based upon this information we believe that the structure is stabilized and therefore certify the structure as safe to proceed with the remodel process to bring the structures up to code for future habitation." And "We are satisfied with the installation of the foundation and soil strengthening materials." The work being reviewed was based on the design that was developed and the plans that were issued by Respondent. Given that neither the design nor the plans were found to comply with the Florida Building Code 6th Ed (FBC), it was not possible for the work to have been compliant thereby making this statement erroneous. Additionally, the PFS Completion Report Summary for this property, published by the contractor, indicated significant deviations from the permitted plan sheets. Based on these noted deviations, it is apparent that Respondent reauthorized large sections of exterior load bearing walls to remain

unsupported. Moreover, there was no indication that any calculations or analysis of any kind was performed to account for and/or justify these changes.

17092 Project

23. Respondent's engineering documents for the 17092 Project were materially deficient as set forth in Paragraphs 24-29:

24. The Subsurface Review Report (17092 Report) failed to properly assess the impact of the sinkhole on the soils acting to support the structure. As such, the information yielded by Respondent's testing was unreliable and irrelevant to the design of an adequate foundation stabilization plan. Furthermore, the 17092 Report recommended that the soils found during the boring be remediated using micro piles. However, micro piles have no impact on or ability to improve or "remediate" underlying soils. Therefore, because it is not possible to remediate soils using micro piles.

25. The November 3, 2018, and August 14, 2019, Remediation Plans (17092 Plans) were deficient in that:

(1) None of the door or window openings were identified or dimensioned;

(2) The micro piles were shown to be spaced well in excess of six (6) feet apart. Exact distances are not known because the 17092 Plans failed to provide any dimensions. It was however estimated that the spacing was as much as twenty-five (25) feet apart;

(3) The micro piles shown adjacent to the structure's corners were spaced far more than two (2) feet away. Exact distances are not known because the 17092 Plans failed to provide any dimensions;

(4) While the legend on Sheet 1 of the 17092 Plan sheets identified "UNDERPINNING PIER" and "UNDERPINNING PIER WITH EXTENDED BRACKET OR SPREADER BEAM", the 17092 Plans only utilized "UNDERPINNING PIER.";

(5) The 17092 Plans failed to provide any information on the type, configuration, or dimensions of the foundation that the micro piles were to attach to;

(6) The 17092 Plans failed to specify the design criteria for the micro piles and corresponding structural systems;

(7) The 17092 Plans failed to identify the nature, magnitude, and location of all design loads to be imposed on the micro piles and/or corresponding structural systems;

(8) The 17092 Plans failed to address or call for any remediation of the sinkhole conditions that were known to exist;

(9) The 17092 Plan failed to address or call for any remediation of the near surface soils beneath the structure and its foundations that were known to have lost compaction;

(10) The 17092 Plans failed to address or call for the repair of the displaced and damaged interior floor slabs that were known to be displaced and damaged;

(11) The 17092 Plans failed to address or call for the repair of the damaged exterior load bearing walls that were known to be structurally compromised;

(12) The 17092 Plans failed to address or call for the evaluation and/or repair of any damaged roof structure components or systems;

(13) The micro pile system depicted on the 17092 Plans is wholly inadequate and incapable of supporting the structure to prevent differential displacement as near surface soils recompact or worse yet, should the sinkhole reactivate beneath the structure.

26. The November 3, 2018, and August 14, 2019, Foundation Stabilization Plan letters (17092 Letters) were materially deficient as follows:

(1) The 17092 Letters are misleading in that the site could not be stabilized until the known sinkhole conditions were remediated and Respondent chose not to mandate such a remediation of the site;

(2) Despite Respondent's statement in the 17092 Letters the design contained within the stabilization program in the 17092 Letters did not comply with Florida Building Code 6th Edition and Florida Building Code 6th Edition - Existing Structures."

27. On August 14, 2019, Respondent signed, sealed, and issued a certification (17092 Certification) in response to Marion County's Notice of Unsafe Structure(s) Abatement & Abandonment letter regarding 17092. The 17092 Certification states "In my professional opinion,

the structure(s) located at the above listed address is not in imminent danger of collapse and thereby does not pose a safety hazard nor should it be classified as an unsafe structure.” Insofar as Respondent chose not to address or remediate the known sinkhole condition and the Respondent’s micro pile design is inadequate and incapable of supporting the structure, the statements made, and opinions expressed in the 17092 Certification were not based on sound engineering principals or judgement and contained false and misleading statements.

28. On February 27, 2020, Respondent signed, sealed, and issued a GPR Report Summation letter regarding 17092. The locations and extents of the shallow grouting called for by the Respondent was not capable of covering the full extent of the anomalies (loose and/or missing soils). Further, Respondent’s claim that the anomalies were the result of pinning and chemical grouting activities is unjustified given the location of the anomalies and the fact that they extended well beyond the limits of the pinning and grouting activities called for.

29. On March 16, 2020, Respondent signed, sealed, and issued a Foundation Repair - Underpinning & Chemical Grout Injection - Site & Structure Review Letter regarding 17092. This document contained the following: “Richter Engineering performed a field review of the project on March 13, 2020, to verify work performed to comply with the Florida Building Code 6th Ed (FBC), NFPA70/NEC17.” In the Review Letter Respondent stated: “Based upon this information we believe that the structure is stabilized and therefore certify the structure as safe to proceed with the remodel process to bring the structures up to code for future habitation.” And “We are satisfied with the installation of the foundation and soil strengthening materials.” However, the PFS Completion Report Summary for this property, published by the contractor, indicated significant deviations from the permitted plan sheets. The 17092 REI Plan Letter (issued on November 3, 2018) and the 17092 REI Plan Letter #2 (issued on August 14, 2019) clearly stated: “The final

depth, point count, and point location will be provided in the monitoring report.” This final certification Review Letter failed to provide any of this information. Based on these noted deviations, it is apparent that Respondent reauthorized large sections of exterior load bearing walls to remain unsupported. Moreover, there was no indication that any calculations or analysis of any kind was performed to account for and/or justify these changes.

**COUNT I
FAILURE TO MAINTAIN DOCUMENTS**

30. Petitioner realleges and incorporates Paragraphs One (1) through Seven (7), as if fully set forth in this Count One.

31. Respondent failed to maintain records of the signed, sealed, and dated engineering documents for a period of three years as required by Rule 61G15-30.009. As a result, Respondent violated the provisions of Section 471.033(1)(a) by violating Rule 61G15-30.009, F. A. C.

32. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(a), Florida Statutes, and Rule 61G15-30.009, F. A. C., by violating a Rule of the Board.

**COUNT II
17086 PROJECT**

33. Petitioner realleges and incorporates Paragraphs One (1) through Four (4) and Eight (8) through Twenty-Two (22), as if fully set forth in this Count Two.

34. Respondent’s drawings for the 17086 Project contain deficiencies including; but not limited to, those set forth in Paragraphs Fifteen (15) through Twenty-Two (22). 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 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 17086 Project and (2) the final engineering documents for the 17086 Project were not issued in compliance with acceptable engineering principles.

35. 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
17092 PROJECT

36. Petitioner realleges and incorporates Paragraphs One (1) through Four (4), Eight (8) through Fourteen (14) and Twenty-Three (23) through Twenty-Nine (29), as if fully set forth in this Count Three.

37. Respondent's engineering drawings for the 17092 Project contain deficiencies including; but not limited to, those set forth in Paragraphs Twenty-Three (23) through Twenty-Nine (29). 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 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 17092 Project and (2) the final engineering documents for the 17092 Project were not issued in compliance with acceptable engineering principles.

38. 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 25th day of July, 2022.

Zana Raybon
Executive Director


BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation
2400 Mahan Dr.
Tallahassee, Florida 32308
Florida Bar No. 212008
JR/rv
PCP DATE: July 13, 2022
PCP Members: MATTHEWS, RAMSEY & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Mark Richter, P.E. at 1502 Busch Boulevard, Suite C, Tampa, Florida 33612, by certified mail and First-Class U. S. Mail, on the 29 of July, 2022.


Rebecca Valentine, Paralegal

FILED
Florida Engineers Management Corp
CLERK: Rebecca Valent
DATE: 7/29/2022

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: Evette Lawson-Proctor
Date: 7/29/2022
File #:

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2020019610

MARK V. RICHTER, 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 MARK V. RICHTER, 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 56196. 1502 Busch Boulevard, Suite C, Tampa, Florida 33612

3. Respondent sealed, signed, and issued a Geotechnical-Subsurface Review & Report (Report) for a residence at 2901 Hammock Vista Ct, Plant City, FL (Hammock Vista Project). The Report was not dated.

4. Additionally, the following engineering reports were signed, sealed, and issued by Respondent but not dated: Geotechnical / Subsurface Review & Report Re: 17092 SE 79th McLawren Terrace, The Villages, FL; Geotechnical / Subsurface Review & Report Re: 17086 SE 79th McLawren Terrace, The Villages, FL

5. Section 471.025(1), Florida Statutes, requires that “[a]ll 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) Signature, Date and Seal Shall Be Affixed provides in material part: 61G15-23.001

(1) 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.

6. On March 3, 2020, Respondent signed and sealed a Foundation Stabilization Installation Plan (Plan) for the same residence.

7. 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...”

8. 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.”

9. 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.

10. 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.”

11. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the Hammock Vista 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.

12. Respondent acted as the engineer of record for the Hammock Vista 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) and (4): 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.

(4) Engineering Documents shall be legible and clearly define and delineate the work in the project.

13. 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.

14. Rule 61G15-31.008 "Design of Foundations" provides:

(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.

(2) Site and sub-grade preparation requirements, necessary to provide the foundation capacity, shall be specified in the structural engineering document(s).

(3) The foundation capacity and site preparation requirements shall be determined on the basis of scientific analysis utilizing investigations, tests or studies conducted for or provided by the engineer of record for the structure or by a licensed professional engineer, in accordance with code procedures.

(4) The engineer of record is responsible for the design of foundation components and shall take into account anticipated loads and load paths along with the evaluation of any existing structural conditions.

15. Respondent's engineering documents for the Hammock Vista Project were materially deficient as set out in Paragraph 16 relating to the Report and Paragraph 17 relating to the Plan:

16. (A) Sheet 1 shows that the locations of Boring 1 and Boring 2 were well outside and away from the footprint of the structure. Further, the shallow hand auger borings failed to establish the depth to rock or "loadbearing stratum" as required by Respondent's pile design. As such, the

information yielded by Respondent's testing in the Report was inadequate and irrelevant to the design of a foundation stabilization plan.

(B) A review of Respondent's testing in the Report did not indicate the presence of any subsurface conditions that required remediation. Additionally, micro piles (a.k.a. pin piles) only stabilize and/or support structures, they have no impact on or ability to improve or "remediate" underlying soils. Therefore, because it is not possible to remediate soils using micro piles, the recommendations in the Report were materially erroneous.

17. (A) The Plan is characterized as a stabilization program and provides for a micro pile system. However, in that there were no known soil anomalies, and it is not clear why micro piles were being installed. Further, while Respondent's Report indicates the existence of problematic soils and damage to the Structure, the nature and extent of any problematic soils or damage to the Structure is not provided. Additionally, while the Plan states that "The pins are to be driven to competent soils" to an "approximate depth of 35 ft.", the shallow hand auger borings were only advanced to 15 feet and failed to establish a "load-bearing stratum" or "competent soils."

(B) The Plan failed to indicate with sufficient clarity the location, nature and extent of the work proposed or provide any design criteria, loading conditions or even basic dimensions. Therefore, the Plan did not comply with the Florida Building Code 6th Edition or the Florida Building Code 6th Edition - Existing Structures. As a result, Respondent's statement that the Plan complied with the Florida Building Code 6th Edition or the Florida Building Code 6th Edition - Existing Structures is materially erroneous.

(C) None of the door or window openings were identified or dimensioned in the Plan.

(D) The micro piles were shown to be spaced well in excess of 6 feet apart. Exact distances are not known because the Plan failed to provide any dimensions.

(E) The micro piles shown adjacent to the structure's corners were spaced far more than 2 feet away. Exact distances are not known because the Plan failed to provide any dimensions. Moreover, the Plan left five (5) interior corners completely unsupported.

(F) The Plan failed to provide any information on the type, configuration, or dimensions of the foundation to which the micro piles were to be attached. In fact, Plan Sheet 2 shows the micro pile supporting a beam that is supporting a floor, not the foundation.

(G) The Plan failed to specify the design criteria for the micro piles and corresponding structural systems.

(H) The Plan failed to identify the nature, magnitude, and location of all design loads to be imposed on the micro piles and/or corresponding structural systems.

18. The above deficiencies in Paragraph 17 violate Rules 61G15-30.003(1), 61G15-30.003(4), 61G15-31.001, 61G15-31.002(5), 61G15-31.008(1), 61G15-31.008(2), 1G15-31.008(3) and 61G15-31.008(4).

COUNT I

FAILURE TO DATE DOCUMENTS

19. Petitioner realleges and incorporates Paragraphs One (1) through Seven (7), as if fully set forth in this Count One.

20. Respondent failed to place the date that Respondent's seal and signature was applied to (1) Geotechnical / Subsurface Review & Report Re: 17092 SE 79th McLawren Terrace, The Villages, FL; (2) Geotechnical / Subsurface Review & Report Re: 17086 SE 79th McLawren Terrace, The Villages, FL. Failure to date the Reports violated Rule 61G15-23.001(1) Signature, Date and Seal Shall Be Affixed and Section 471.025(1), Florida Statutes.

21. Based on the foregoing, Respondent is charged with violating Section 471.025(1), Florida Statutes, Section 471.033(1)(a), Florida Statutes, and Rule 61G15-23.001(1), F. A. C., by violating a Rule of the Board.

COUNT II

22. Petitioner realleges and incorporates Paragraphs One (1) through Three (3) and Eight (8) through Eighteen (18), as if fully set forth in this Count Two.

23. Respondent's engineering documents for the Hammock Vista Project contain deficiencies including but not limited to, those set forth in Paragraphs Fourteen (14) through 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 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 Hammock Vista Project and (2) the final engineering documents for the Hammock Vista Project were not issued in compliance with acceptable engineering principles.

24. 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 25th day of July, 2022.

Zana Raybon
Executive Director


BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation
2400 Mahan Dr.
Tallahassee, Florida 32308
Florida Bar No. 212008
JR/rv
PCP DATE: July 13, 2022
PCP Members: MATTHEWS, RAMSEY & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Mark Richter, P.E. at 1502 Busch Boulevard, Suite C, Tampa, Florida 33612, by certified mail and First-Class U. S. Mail, on the 29 of July, 2022.


Rebecca Valentine, Paralegal