

FILED
Florida Engineers Management Corp
CLERK Rebecca Valentin
DATE 5/03/2023

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 5/3/2023
File #: 2023-03199

**STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS**

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC CASE NO.: 2021027471

AMERICAN MARINE ENGINEERING, INC.

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the Florida Board of Professional Engineers (hereinafter “the Board”) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, at a duly noticed public meeting on April 13, 2023, in Tampa, Florida for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by John J. Rimes, Chief Prosecuting Attorney. Respondent was NOT present NOR represented by legal counsel. Upon consideration of the material presented, and being otherwise advised in the premises, the Board makes the following findings and conclusions.

RULING ON MOTION

Petitioner has filed and properly served upon Respondent a Motion for Determination that Respondent forfeited their right to an administrative hearing pursuant to section 120.57(1), F.S. and to convene a section 120.57(2), F.S. hearing not involving disputed issues of material fact. Respondent failed to respond to the Motion.

After consideration of the Motion, the Board finds that Respondent failed to respond to the served Administrative Complaint within the time period provided by law,

which constitutes a waiver of the right to elect a hearing. Accordingly, Petitioner's Motion is GRANTED and the Board convenes a section 120.57(2), F.S., hearing.

FINDINGS OF FACT

1. Respondent was properly served with a copy of the Administrative Complaint and did not file a response within 21 days of service.
2. The investigative file was provided and accepted into evidence without objection, and establishes the facts alleged in the Administrative Complaint.
3. The Board adopts as its finding of facts the allegations of fact in the Administrative Complaint.

CONCLUSIONS OF LAW

1. Failure to timely respond to a properly served Administrative Complaint constitutes a waiver of the right to elect a hearing involving disputed issues of material fact pursuant to Section 120.57(1), Florida Statutes.
2. The established facts constitute the violations set forth in the Administrative Complaint, which are adopted and incorporated by reference as the conclusions of law in this case and for which the Board may impose discipline.
3. The Board is empowered by Sections 455.227 and 471.033, Florida Statutes, to impose a penalty against the Respondent.
4. There is competent, substantial evidence to support the Board's findings of fact and conclusions of law. Therefore, it is


ORDERED AND ADJUDGED that Respondent is assessed an Administrative Fine of Five Thousand Dollars (\$5,000) and Administrative Costs of One Hundred Twenty Dollars and ninety cents (\$120.90), both to be paid within thirty (30) days of the date of

this Final Order.

This Final Order shall take effect upon being filed with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 1 day of May, 2023.

BOARD OF PROFESSIONAL ENGINEERS



By Zana Raybon, Executive Director
for Dylan Albergo, P.E., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE FLORIDA APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. mail to: **American Marine Engineering, Inc.**, 20423 State Road 7, #F6-346, Boca Raton FL 33498; interoffice mail to: **John J. Rimes**, Chief Prosecuting Attorney, FEMC, 2400 Mahan Drive, Tallahassee, Florida 32308 and **Board of Professional Engineers**, 2400 Mahan Drive, Tallahassee, Florida 32308; and by electronic mail to: **Lawrence D. Harris**, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com this 3 day of May, 2023.



FILED
Florida Engineers Management Corp
CLERK Rebecca Valentine
DATE 11/29/2021

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evelle Lawson-Proctor
Date	11/29/2021
File #	

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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FEMC Case No. 2021027471

AMERICAN MARINE ENGINEERING, INC.,

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_____ /

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 AMERICAN MARINE ENGINEERING, INC, 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, AMERICAN MARINE ENGINEERING, INC. ("Respondent"), is a Florida corporation whose last known address, according to the Florida Division of Corporations

database, is 20423 State Road 7 #F6-346, Boca Raton, Florida 33498. Stephen Holdaway in Respondent's President and Chief Executive Officer.

3. Respondent has never been registered as an engineering business organization as is required under the provisions of Chapter 471.023(1), Florida Statutes, and Rule 61G15-20.010, Florida Administrative Code, for a business organization to practice or offer to practice engineering in Florida.

4. Respondent offers engineering services to the public as is set out at its website located at <https://www.amefl.com> and in documents issued by Respondent. Among the advertising and promotional materials located on the website and in the documents are the following:

(a) an Invoice dated 2021-04-23 to Brian Woods for "Outstanding balance for engineering fees and permitting application".

(b) Document dated April 2, 2021 for Project: 2311 NE 33rd St. Lighthouse Point, FL offering engineering and providing an engineering schedule.

(c) Advertising located at <https://www.amefl.com/> which states, in part:

(1) "We provide excellence in workmanship backed by 40 years of experience in commercial/residential projects including seawall engineering, coastal engineering."

(2) "Our engineers have earned the PE licensure seal which represents the highest standard of competency."

(3) "All of our inspectors are licensed engineer and not just inspectors."

(4) "Inspection reports are signed and sealed by a certified PE"

5. Chapter 471.023 (1), Florida Statutes, provides in material part that:

(1) The practice of, or the offer to practice, engineering by licensees or offering engineering services to the public through a business organization, including a partnership, corporation, business trust, or other legal entity or by a business organization, including a corporation, partnership, business trust, or other legal

entity offering such services to the public through licensees under this chapter as agents, employees, officers, or partners is permitted only if the business organization is qualified by an engineer licensed under this chapter, subject to the provisions of this chapter. One or more of the principal officers of the business organization or one or more partners of the partnership and all personnel of the business organization who act in its behalf as engineers in this state shall be licensed as provided by this chapter. All final drawings, specifications, plans, reports, or documents involving practices licensed under this chapter which are prepared or approved for the use of the business organization or for public record within the state shall be dated and shall bear the signature and seal of the licensee who prepared or approved them. Nothing in this section shall be construed to mean that a license to practice engineering shall be held by a business organization. Nothing herein prohibits business organizations from joining together to offer engineering services to the public, if each business organization otherwise meets the requirements of this section. No business organization shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a business organization.

6. Rule 61G15-20.100 Qualified Business Organizations provides as follows: Pursuant to Section 471.023, F.S., the practice or offer to practice engineering or engineering services to the public through a business organization, or by a business organization or other person practicing under a fictitious name, is permitted only if the business organization is qualified by a Florida licensed professional engineer. A qualifying agent who is the professional engineer qualifying the business organization must notify the Board of any change in the name of the business organization or the business organization's qualifying Professional Engineer within thirty (30) days of such change.

7. Chapter 471.031(1), Florida Statutes, provides in material part that: (1) A person may not: (a) Practice engineering unless the person is licensed or exempt from licensure under this chapter. (b) 1. ... use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license

as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "... civil engineer, ...

8. The practice of engineering is defined in Chapter 471.005(7), Florida Statutes, to include in material part:

... any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, ... of engineering works and systems, ... any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, ... insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; ... who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of [Chapter 471].

9. Chapter 471.033(1)(a), Florida Statutes, provides in material part: "(1)The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a)[v]iolating any provision of ... s. 471.031."

10. A Notice to Cease & Desist as provided in Section 455.228(1), Florida Statutes, was prepared and mailed to Respondent on June 22, 2021. Respondent did not sign the Notice.

11. Petitioner contacted Stephen Holdaway, Respondent's President and Chief Executive by telephone. During that telephone conversation, Mr. Holdaway indicated that Respondent would register the firm as a Qualified Business Organization with the Board. Subsequent thereto from July to September 2021 Petitioner had numerous communications with Mr. Holdaway regarding the registration of Respondent. Despite several promises to register the firm no action was forthcoming.

12. Chapter 455.228(1), Florida Statutes, provides in material part: (1) When the [D]epartment [of Business and Professional Regulation] has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, ... the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 ...

13. Chapter 471.038(5), Florida Statutes, provides in material part: “[n]otwithstanding ss. 455.228 and 455.2281, the duties and authority of the department to receive complaints and to investigate and deter the unlicensed practice of engineering are delegated to the [Board of Professional Engineers].” As a result, the Board is authorized to impose the administrative penalty described in Paragraph 12.

14. In light of the foregoing, the work offered to be performed by Respondent on its website constitutes the offering to practice and the practice of engineering as defined in Chapter 471.005(7), Florida Statutes. As such, the offering and provision of the services described in Paragraph 4 by Respondent represents the unlawful practice of engineering by Respondent, a business entity is not registered as a Qualified Business Organization, in violation of Chapters 455.228(1), 471.031(1)(a), and 471.038(5), Florida Statutes, and Rule 61G15-20.010..

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 29th day of November, 2021.

Zana Raybon
Executive Director



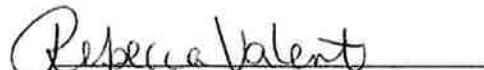
BY: John J. Rimes, III
Prosecuting Attorney

COUNSEL FOR FEMC:

John J. Rimes, III
Prosecuting Attorney
Florida Engineers Management Corporation
2400 Mahan Dr.
Tallahassee, Florida 32308
Florida Bar No. 212008
JR/rv
PCP DATE: November 09, 2021
PCP Members: MATTHEWS, ALBERGO & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to American Marine Engineering, Inc. at 20423 State Road 7, #F6-346, Boca Raton, Florida 33498, by certified mail and First-Class U. S. Mail, on the 30 of November, 2021.



Rebecca Valentine, Paralegal