

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



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

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC CASE NO.: 2020054384

KEVIN W. HENSLEY

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 Two Hundred Sixty-Seven Dollars (\$267.00), 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 7 day of May, 2023.

BOARD OF PROFESSIONAL ENGINEERS



By Zana Raybon, Executive Director
for Dylan Aboergo, 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: **Kevin W. Hensley**, 15 Fairway Road, Jacksonville Beach, Florida 32250; 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.



Rebecca Valentin

FILED
Florida Engineers Management Corp
CLERK Rebecca Valente
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. 2020054384

KEVIN W. HENSLEY,

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 KEVIN W. HENSLEY, 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 not and never has been licensed as a licensed professional engineer in the State of Florida. Respondent's last known address is 15 Fairway Road, Jacksonville Beach, Florida 32250.

3. Respondent signed and sealed engineering construction documents for a project located at 807 Grider Street, Jacksonville, FL (Renovation Project) on November 25, 2019, by forging the signature of Nester Cueto, Florida P.E. #71988, by using the seal of PE Cueto, and using the fictitious name of NCE, purportedly a firm located in Charlotte North Carolina.

4. The practice of engineering is defined in Section 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].

5. Section 471.031(1), Florida Statutes, provides that: “(1) A person may not:
(a) Practice engineering unless the person is licensed or exempt from licensure under this chapter... (c) Present as his or her own the license of another.” Section 471.033(1), 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....

6. Section 455.228(1), Florida Statutes, provides in material part: (1) When the [Department 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”

7. Section 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 6.

8. Respondent signed and sealed fraudulently the plans for the Renovation Project by forging the name of a professional engineer and fraudulently applying the seal of that professional engineer. As noted above, Respondent is not and has never been licensed as a professional engineer.

9. In light of the foregoing, the provision of and/or offering to provide engineering services by Respondent constituted the practice of engineering as defined in Chapter 471.005(7), Florida Statutes, when Respondent does not possess a license as a PE. Additionally, the fraudulent forging of PE Cueto’s signature and use of PE Cueto’s seal constituted the fraudulent use of PE Cueto’s seal and forging of PE Cueto’s signature by Respondent in violation of Section 471.031(a) and (c). As such, the offering and provision of the services described in Paragraphs Four (4) and Five (5) by Respondent represents the unlawful practice of engineering by Respondent in violation of Chapters 455.228(1), 471.031(1)(a) and (c), and 471.038(5), Florida Statutes.

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 Kevin Hensley, P.E. at KLT constructions, Inc., 15 Fairway Road, Jacksonville Beach, FL 32250, by certified mail and First-Class U. S. Mail, on the 29 of July, 2022.


Rebecca Valentine, Paralegal