

FILED

Florida Engineers Management Corp

CLERK Rebecca Valente

DATE 10/17/2023



STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2022039446

JOSEPH SIMMONS, III, 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 October 12, 2023 in Tampa, 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.

Upon consideration of the stipulation, the documents submitted in support thereof, and the arguments of the parties, the Board determined the Accept the existing Settlement Stipulation with the following Amendments agreed to by the Parties:

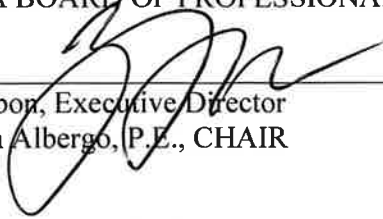
1. **REDUCE costs to \$1,600.00.**

ORDERED AND ADJUDGED that the Settlement Stipulation as entered into by the parties and submitted is accepted, as modified by the above terms. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the stipulation, as modified, and this Final Order.

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

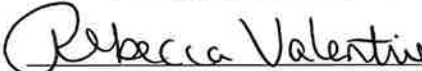
DONE AND ORDERED this 17 day of October, 2023.

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 Respondent Joseph Simmons, III, P.E. at 7619 Gramercy Drive, Orlando, Florida 32818 and joesimmons3@gmail.com this 18 day of October, 2023.

  
\_\_\_\_\_  
Rebecca Valentine,  
Paralegal

STATE OF FLORIDA  
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FEMC Case No. 2022039446

JOSEPH SIMMONS, III, P.E.,

Respondent,  
\_\_\_\_\_ /

SETTLEMENT STIPULATION

JOSEPH SIMMONS, III, 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 52101.
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 shall pay an ADMINISTRATIVE FINE of \$1,000.00 and COSTS of \$9,197.34 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 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](mailto:engineering.ethics@ttu.edu)

EPD Program  
Auburn University  
Engineering Extension Service  
217 Ramsay Hall, Auburn, Alabama 36849-5331  
Ethics and Professionalism  
Phone 800-446-0382 or 334-844-4370

An Accredited College or University course if that course information is first submitted to the FEMC for review and determination as to whether or not it will comply with the Board's requirements.

*Courses offered by Continuing Education Programs or Professional Business Programs (Exp: SunCam, Inc., C2Ed), are not Board Certified, and will not meet the requirements.*

b.) Respondent shall successfully complete the **STUDY GUIDE** which has been prepared by the Board and which will be furnished to Respondent, regarding the Engineering Practice Act, Chapter 471, Florida Statutes, and the Rules of the Board. Respondent is required to provide a personal email address that will be used to access the on-line study guide. The study guide must be completed within thirty (30) days of the date on which the Final Order incorporating this Stipulation is filed with the Agency Clerk.

c.) Respondent shall submit to the Board a detailed list of all completed projects (signed, sealed, and dated), by the Respondent for **PROJECT REVIEW** at six (6) and eighteen (18) month intervals from the date the Final Order adopting this Stipulation is filed with the Agency Clerk. The projects shall include: **all structural engineering projects 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.

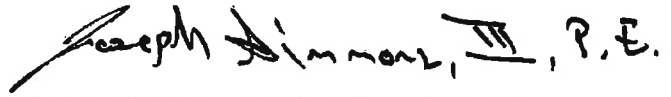
9. It is expressly understood that this Stipulation is subject to approval of the Board and FEMC and has no force and effect until the Board issues a Final Order adopting this agreement.

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.



Joseph Simmons, III, P.E.  
Respondent  
Case No. 2022039446

APPROVED this 15th day of August, 2023.

Zana Raybon, Executive Director  
Florida Board of Professional Engineers



John Rimes (Aug 15, 2023 10:35 EDT)

BY: John J. Rimes, III  
Chief Prosecuting Attorney



FILED

Florida Engineers Management Corp

CLERK Rebecca Valentin

DATE 7/18/2023



STATE OF FLORIDA  
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL  
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2022039446

JOSEPH SIMMONS, III, 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 JOSEPH SIMMONS, III, 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 52101. Respondent's last known address is 7619 Gramercy Drive, Orlando, Florida 32818.

3. On April 14, 2022, Respondent signed sealed and dated engineering plans for construction of a single-family residence located at 531 9th Street, Winter Garden, Florida (D & L Project). The plans were drawn in conformity with the 2020 Florida Building Code (FBC-Residential).

4. 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.”

5. 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.

6. 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.”

7. Rule 61G15-30.002(1), Fla. Admin. Code, mandates that Respondent, as the engineer of record for the D & L 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.

8. Respondent acted as the Structural, Engineer of Record for the D & L 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, 61G15-32, 61G15-33, and 61G15-34, 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.

9. The Florida Building Code (2020) – Building (FBC-B) Section 107.2.1 “Information on construction documents” states: “Construction documents shall 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 this code and relevant laws, ordinances, rules and regulations, as determined by the building official”

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. Respondent’s Structural Engineering Design Documents for the D & L Project are materially deficient as follows:

(a) Page 2 of 10 has the ultimate wind speed shown as 139 mph, and allowable wind speed as 103 mph. An ultimate wind speed of 139 mph is equal to an allowable wind speed of 107.7 mph.

(b) There is no structural support shown for the load bearing wall below the 2nd floor-to-roof wall over the garage area.

(c) The floor and roof trusses are designated as delegated engineered designs. Floor and roof live and dead design loads are not provided as required. (Rule 61G15-31.003(2))

(d) Sheet 5 of 10, Note 12, indicates that the #5 rebar be a minimum of Grade 40 steel. However, in accordance with the 2020 Florida Building Code, Residential, Section R301.2.1.1(2), if the ultimate wind speed exceeds 115 mph, then ICC 600 is to be used for the masonry wall design. Section 402.1.4 of ICC 600 requires a minimum steel grade of 60, which is a higher strength steel.

(e) There is no continuous load path provided from the high roof to the foundation, specifically a large section of load bearing second floor wall is unsupported over the garage. If constructed as shown, this would provide an unsafe condition.

12. Respondent's structural engineering drawings for the D & L Project documents contain deficiencies including; but not limited to, those set forth in Paragraph Eleven (11). 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 D & L Project documents and (2) the final engineering documents for the D & L Project documents were not issued in compliance with acceptable engineering principles.

13. 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 18th day of July, 2023.

Zana Raybon  
Executive Director

  
John Rimes (Bar ID: 2022 01 25 101)  
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 07, 2023  
PCP Members: MATTHEWS, PISTORINO & RAMSEY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Joseph Simmons, III, P.E. at 7619 Gramercy Drive, Orlando, Florida 32818, by certified mail and First-Class U. S. Mail, on the 19 of July, 2023.

  
Rebecca Valentine, Paralegal