

FILED
Florida Engineers Management Corp
CLERK Rebecca Valento
DATE 01/11/2024

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 1/11/2024
File #: 2024-00234

**STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS**

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC CASE NO.: 2022043254
LICENSE NO.: PE 59354

DAVID L. HEMMEL, P.E.

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 December 7, 2023, in Tallahassee, Florida, for hearing regarding 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 and was NOT 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 his 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 provided and accepted into evidence 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. Therefore, it is

ORDERED AND ADJUDGED:

1. Respondent's Florida Professional Engineering License, No. PE 59354 is REPRIMANDED.

2. Respondent's Florida Professional Engineering License, No. PE 59354, is SUSPENDED until reinstated by the Board.

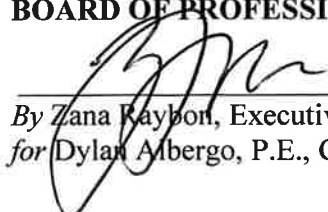
3. Prior to reinstatement of the suspended license, Respondent shall comply with the following:

- a. Respondent shall pay an administrative FINE of One Thousand Dollars (\$1,000.00) and administrative COSTS in the amount of Forty-Eight Dollars and seventy-five cents (\$48.75);
- b. Respondent shall take and pass the Board's Laws and Rules Study Guide;
- c. Respondent shall take and pass ONE of the following:
 1. EPD Program
Ethics and Professionalism Basic Intermediate (v10F)
Auburn University Engineering Extension Service
217 Ramsay Hall, Auburn, Alabama 36849-5331
Phone 800-446-0382 or 334-844-4370
 - OR
 2. Engineering Ethics Basic
Murdough Center for Engineering Professionalism
Texas Tech University, PO Box 41023,
Lubbock, Texas 79409
Telephone 806-742-3525; Fax 806-742-0444;
E-mail: engineering.ethics@ttu.edu
- d. Respondent shall submit documentation of compliance with ALL continuing education requirements; and
- e. Respondent shall Petition for Reinstatement, and shall personally appear before the Board at the meeting where the Petition is considered.

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

DONE AND ORDERED this 10 day of January, 2024.

BOARD OF PROFESSIONAL ENGINEERS

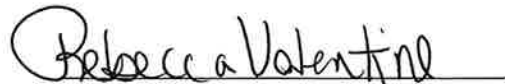

By Zana Raybon, Executive Director
for Dylan Albergo, P.E., Chair

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 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 **David L. Hemmel, PE**, P.O. Box 4255, Key West, FL 33041; by interoffice mail to **John J. Rimes, FEMC**, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303 and **Board of Professional Engineers**, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303; and by electronic mail to **Lawrence D. Harris**, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com this 12 day of January, 2024.



FILED
Florida Engineers Management Corp
CLERK Patricia Valentine
DATE 3/27/2023

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: Evette Lawson-Proctor
Date: 3/27/2023
File #:

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2022043254

DAVID L. HEMMEL, 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 DAVID L. HEMMEL, 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 59354. Respondent's last known address is Post Office Box 4255, Key West, Florida 33041.

3. Pursuant to Rule 61G15-22.006(2), Florida Administrative Code, “The Board will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met.” Pursuant to the provisions of the Rule, FEMC requested the Department of Business & Professional Regulation (DBPR) to provide a list containing a random number of licensees who had renewed their licenses. This information was received from DBPR on the same day.

4. Respondent renewed Respondent’s Professional Engineer license on November 13, 2020 and attested that Respondent had completed the required Continuing Education necessary for renewal as required by Section 471.017(3)(a), Florida Statutes, which provides in material part:

“(3)(a) The board shall require a demonstration of continuing professional competency of engineers as a condition of license renewal or relicensure. Every licensee must complete 9 continuing education hours for each year of the license renewal period, totaling 18 continuing education hours for the license renewal period. For each renewal period for such continuing education:

1. One hour must relate to this chapter and the rules adopted under this chapter.
2. One hour must relate to professional ethics.
3. Four hours must relate to the licensee’s area of practice.
4. The remaining hours may relate to any topic pertinent to the practice of engineering.

Continuing education hours may be earned by presenting or attending seminars, in-house or nonclassroom courses, workshops, or professional or technical presentations made at meetings, webinars, conventions, or conferences, including those presented by vendors with specific knowledge related to the licensee’s area of practice....”

5. On October 13, 2021, Respondent was provided with a Memo advising Respondent that Respondent was selected to participate in the audit process. Despite numerous email, telephonic and internet searches having been made, no response has been received to the Memo.

6. In view of the lack of information provided by Respondent, there is no evidence that, when Respondent renewed the PE license on November 13, 2020, Respondent had completed any of the CE Courses required for renewal as provided in Section 471.017(3), Florida Statutes.

7. In order to have been in compliance with Section 471.017 when Respondent certified that Respondent had taken and completed all required CE Courses, Respondent was required to have taken and completed all required CE Courses by February 28, 2021.

8. Section 471.033(1)(a) provides in material part: “(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken: (a) Violating any ... rule of the board or department. Rule 61G15-19.001(6)(s), Florida Administrative Code, provides in material part: “(6) [a] professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall include, but not be limited to: (s) Renewing or reactivating a license without completion of Continuing Education (CE) hours and subject areas as required by Section 471.017, F.S., and Rule 61G15-22.001, F.A.C.”

9. By renewing Respondent’s PE license without having completed the required CE Courses at the time that Respondent certified that all required CE Courses had been taken, Respondent violated Section 471.033(1)(a) and Rule 61G15-19.001(6)(s).

10. Based upon the foregoing Respondent is hereby charged with violating Section 471.033(1)(a) and Rule 61G15-19.001(6)(s).

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 27th day of March, 2023.

Zana Raybon
Executive Director



John Rimes, III Mar 27, 2023 09:16 EDT
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: March 15, 2023
PCP Members: MATTHEWS, RAMSEY & PEPPER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to David L. Hemmel, P.E. at Post Office Box 4255, Key West, Florida 33041 by certified mail and First-Class U. S. Mail, on the 29 of March, 2023.


Rebecca Valentine, Paralegal

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2022043254

DAVID L. HEMMEL, P.E.,

Respondent,

**MOTION TO DETERMINE THAT RESPONDENT HAS FORFEITED
RESPONDENT'S RIGHT TO AN ADMINISTRATIVE HEARING UNDER SECTIONS
120.569 AND 120.57(1), FLORIDA STATUTES, AND TO CONVENE PROCEEDINGS
UNDER SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES**

COMES NOW Petitioner, the Florida Engineers Management Corporation ("FEMC"), pursuant to Rule 28-106.204, Florida Administrative Code, and states:

1. On March 27, 2023, a copy of the Administrative Complaint was sent, by Certified Mail, to Respondent. The United States Postal Service was unable to advise whether the Certified Mailing was received by Respondent and the Certified Mail was returned to Petitioner as undeliverable.

2. On July 17, 2023, Petitioner attempted to serve an Administrative Complaint on Respondent (Certificate of Non-Service attached hereto as Exhibit 1). The process server was not able to effectuate service of the Administrative Complaint.

3. Between August 03, 2023, August 10, 2023, August 17, 2023, and August 24, 2023 four consecutive weeks, Petitioner published a Notice of Action in the Weekly News Newspaper (see copy of publication attached hereto as Exhibit 2)

4. Respondent has failed to respond to the Administrative Complaint.

5. Therefore, in order to preserve its right to a hearing, Respondent must have filed a response to the Administrative Complaint by filling out the Election of Rights form or by filing a petition for an administrative hearing with Florida Engineers Management Corporation by September 14, 2023. Such an action is required in order for Respondent to preserve its right to a hearing on the charges contained in the Administrative Complaint. As set out in the Election of Rights form it is mandated that Respondent has “attached to this form a petition or written statement in conformance with Rule 28-106.201, F. A. C. ...” in order to be afforded the right to an administrative hearing.

6. To date, no response of any kind has been received by the Board of Professional Engineers or by the Florida Engineers Management Corporation.

7. Since Respondent has not filed a request for an administrative hearing, Respondent has, therefore, waived any right to an administrative hearing. As a result, it is appropriate for the Board to conduct these proceedings under the provisions of Sections 120.569 and 120.57(2), Florida Statutes, and Rules 28-106.301-307, Fla. Admin. Code. Under such provisions, the material facts in the Administrative Complaint are deemed undisputed, and the Board will proceed to render its conclusions of law and impose such penalties upon Respondent as the Board determines are appropriate.

WHEREFORE, Petitioner respectfully moves this Board to determine that Respondent has forfeited Respondent’s rights to an administrative hearing and to deem the material facts in the Administrative Complaint as undisputed; and, based thereupon, to render such conclusions of law and to impose such penalties upon Respondent as the Board determines are appropriate.


Respectfully submitted,


John Rimes (Sep 20, 2023 09:13 EDT)

John Rimes III
Prosecuting Attorney
Florida Engineers Management Corporation
2639 North Monroe Street, Suite B-112
Tallahassee, Florida 32303
Florida Bar No. 212008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing *Motion to Determine that Respondent has Forfeited Respondent's Right to an Administrative Hearing Under Sections 120.569 and 120.57(1), Florida Statutes, and to Convene Proceedings Under Sections 120.569 and 120.57(2), Florida Statutes* was furnished to: David L. Hemmel, P.E. at Post Office Box 4255, Key West, Florida 33041, by U.S First Class Mail, on the 20th of September, 2023.


John Rimes (Sep 20, 2023 09:13 EDT)

John J. Rimes, III, Attorney

VERIFIED RETURN OF NON-SERVICE

State of Florida

County of

FBPEE Court

Case Number: 2022043254

Plaintiff: Florida Board of Professional Engineers

vs.

Defendant: DAvid L. Hemmel, P.E.

For:

John J. Rimes

Florida Board of Professional Engineers

2639 North Monroe Street

Suite B-112

Tallahassee, FL 32303

Received by Vause's Process Service on the 28th day of June, 2023 at 1:02 pm to be served on **David L. Hemmel P.E., 1008 Southard St., Key West, FL 33040.**

I, Miranda Rios, do hereby affirm that on the **17th day of July, 2023 at 2:08 pm, I:**

NON-SERVED the Cover Letter, Administrative Compliant, Settlement Stipulation, Election of Rights, Explanation of Rights for the reason that I failed to find **David L. Hemmel P.E. @ 1008 Southard St., Key West, FL 33040** or any information to allow further search. Read the comments below for further details.

Additional Information pertaining to this Service:

6/30/2023 11:56 am Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence

7/5/2023 5:47 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence, server observed packages on the porch address to a Simms Thomas

7/7/2023 12:43 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence

7/11/2023 1:21 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence. No vehicles there about the residence.

7/12/2023 1:33 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence. No vehicles observed in front of the residence.

7/15/2023 12:58 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence. Server can see the inside of the residence, which appears to be very clean and not lived in. And prior attempts are observed packages on the porch which have moved, server believes someone is coming and going from this residence, but it does not appear that anyone lives here full-time

7/17/2023 2:08 pm Attempted service at 1008 Southard St., Key West, FL 33040 no answer at the residence, server observed a blue Nissan versa. Florida tag PXVJ73 parked in front of the residence

I certify that I am over the age of 18 & have no interest in the above action, am a Special Process Server, in good standing, in the 16th Judicial Circuit in and for Monroe County; that service was made in accordance with Florida Statutes 48.031. Under penalty of perjury, I declare that I have read the foregoing & that the facts stated in it are true. Notary not required pursuant to F.S.92.525(4).



Miranda Rios
MCSO Appt. #174

Vause's Process Service
P.O. Box 1777
Tallahassee, FL 32302-1777
(850) 656-2605

Our Job Serial Number: VPS-2023005000





Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

August 3, 10, 17 & 24, 2023

Affiant further says that the said **WEEKLY NEWSPAPERS** is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

STATE OF FLORIDA
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS
FEMC Case No.: 2022043254
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS,
Petitioner,
vs.
DAVID HEMMEL, P.E.,
Respondent.
NOTICE OF ACTION
TO: David Hemmel, P.E.
Post Office Box 4255
Key West, Florida 33041
UNLICENSED ACTIVITY
The Florida Board of Professional
Engineers has filed an
Administrative Complaint against
you, a copy of which may be
obtained by contacting, Rebecca
Valentine, Legal Department,
Florida Board of Professional
Engineers, 2400 Mahan Dr.,
Tallahassee, Florida 32308, (850)
521-0500 ext. 106.
If no contact has been made by
you concerning the above by
September 14, 2023, the matter
of the Administrative Complaint
will be presented at a hearing
pursuant to 120.57(2), F.S. before
the Florida Board of Professional
Engineers.
In accordance with the
Americans with Disabilities
Act, persons needing a special
accommodation to participate in
this proceeding should contact
the individual or agency sending
notice not later than seven days
prior to the proceeding at the
address given on the notice.
Telephone: (850) 257-6097;
1-800-955-8771 (TDD) or 1-800-
955-8770 (V), via Florida Relay
Service.
Publish:
August 3, 10, 17 & 24, 2023
The Weekly Newspapers

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Publish:
August 3, 10, 17 & 24, 2023
The Weekly Newspapers

Sworn to and subscribed before
me this day of *Aug. 24*, 2023
(SEAL)
[Signature]
Notary

