

FILED
Florida Engineers Management Corp
CLERK Rebecca Valentine
DATE 8/26/2024

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 8/26/2024
File #: 2024-07704

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2023043725

JORGE FIALLO, P.E.,

Respondent,
_____ /

FINAL ORDER ADOPTING SETTLEMENT STIPULATION

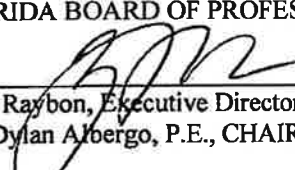
THIS CAUSE came before the FLORIDA BOARD OF PROFESSIONAL ENGINEERS (“Board”), pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on July 08, 2024 in Kissimmee, Florida, for the purpose of considering a Settlement Stipulation (attached hereto as “Exhibit A to Final Order”) entered into between 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 23 day of August, 2024.

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 Jorge Fiallo, P.E. by service upon his attorney of record: George Levesque, Esquire, GreyRobinson, P.A. at 301 South Bronough Street, Suite 600, Tallahassee, Florida 32301 and george.levesque@gray-robinson.com this 27 day of August, 2024.

Rebecca Valentine

Rebecca Valentine,
Paralegal

STATE OF FLORIDA
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JORGE FIALLO, P.E.,

Respondent,

_____ /

SETTLEMENT STIPULATION

JORGE FIALLO, P.E. (“Respondent”) and the Florida Engineers Management Corporation (“FEMC”) hereby stipulate and agree to the following Joint Settlement Stipulation (“Stipulation”) and to entry of a Final Order of the Florida Board of Professional Engineers (“Board”), incorporating this Stipulation in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent, JORGE FIALLO, P.E., was a licensed engineer in the State of Florida, having been issued license number PE 65527. Respondent was charged with violations of Chapter 471, Florida Statutes, in an Administrative Complaint filed by the Florida Engineers Management Corporation, and properly served upon Respondent. True and correct copies of the filed Administrative Complaints are attached hereto and incorporated herein by reference as “Composite Exhibit A to Settlement Stipulation”.

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in Respondent’s capacities as a licensed professional engineer admits that, in such capacity, Respondent is subject to the provisions of Chapter 471, Florida Statutes, and

the jurisdiction of the Department of Business and Professional Regulation (“Agency” or “Department”), 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, an administrative complaint for failure to comply with final order will automatically be opened against Respondent.

3. 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.

4. Respondent shall pay COSTS of \$1,749.60 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 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 Fire System Engineering discipline.** **The Term "Fire System Engineering" encompasses all services encompassed by Rule Chapter 16G15-32.**

d. **A FEMC Consultant** will select two (2) projects from each submitted list for review. The Respondent is responsible for promptly furnishing any set of completed plans (signed, sealed, and dated), calculations, and any other supporting documentation requested by the Consultant. The Respondent must sign, date, and seal all materials that are submitted for project review using a non-embossed, rubber stamp 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 reviews cost exceed \$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 5.c., above, the initial or, if applicable, the subsequent submission required by the terms of settlement stipulation 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 the settlement stipulation, 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, Florida Statutes, 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 the settlement stipulation that the Board deems appropriate at that time.

g. Should the FEMC Consultants both return a favorable report after reviewing the sets of plans reviewed during the first year of the settlement stipulation, the requirements for the second year of the settlement stipulation may be waived and the settlement stipulation 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.



Digitally signed
by Jorge Fiallo
Date: 2024.05.22
08:24:28 -04'00'

Jorge Fiallo, P.E.,
Respondent
Case No. 2023043725
Dated: 05-22-24

APPROVED this 29 day of May, 2024

Zana Raybon, Executive Director
Florida Board of Professional Engineers

BY: John J. Rimes, III
Chief Prosecuting Attorney

FILED
Florida Engineers Management Corp
CLERK Rebecca Valentino
DATE 3/26/2024



STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

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FEMC Case No. 2023043725

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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 JORGE FIALLO, 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 65527. Respondent's last known address is 10010 SW 83rd Street, Miami, Florida 33173.

3. On August 23, 2019, Respondent sealed signed and dated engineering design documents for a Fire Alarm System for the Atlantic Sapphire USA Salmon Farm, located at 22275 SW 272 Street, in Miami, Florida (Atlantic Project).

4. Respondent acted as Engineer of Record for the Fire Alarm System for the Atlantic Project as that term is defined in Rule 61G15-32.002(1), F. A. C. As such, all Fire Alarm System documents prepared, signed, sealed, and dated by Respondent must contain the information set out in Rule 61G15-32.002(5), F. A. C., as is mandated by Rule 61G15-32.001, F. A. C., setting out the General Responsibility standards for engineers designing fire protection systems. As set forth herein, the plans and specifications for the Atlantic Project Plans fail to comply with the Responsibility Rules.

5. Rule 61G15-32.003 Common Requirements to All Fire Protection System Engineering Documents states in material part that:

(2) The Fire Protection System Engineering Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available.

(4) The applicable code(s) and standard(s) to be used in the preparation of the Fire Protection System Layout Documents shall be shown on the Fire Protection System Engineering Documents. When codes and standards are not available or applicable, and said layout documents are to be based on engineering judgment, any reasons and assumptions made to develop the fire protection concept shall be identified on the Fire Protection System Engineering Documents.

6. Rule 61G15-32.008 Design of Fire Alarms, Signaling Systems, and Control Systems states in material part:

(4) To ensure minimum design quality of Fire Alarm and Detection Systems Engineering Documents, said documents shall include as a minimum the following information when applicable: (h) Locate system devices that are subject to environmental

factors, and indicate requirements for the protection of equipment from temperature, humidity, or corrosive atmospheres, including coastal salt air.

7. Respondent's Fire Alarm System Plans for the Atlantic Project are materially deficient as follows:

A. Section 10.4.3 of NFPA 72 states: Equipment shall be installed in locations where conditions do not exceed the voltage, temperature, and humidity limits specified in the manufacturer's published instructions. The evidence presented indicates that the smoke detectors specified by Respondent for the Atlantic Project are not appropriate for the site environment. Respondent recognized that the Atlantic Project site's environment was harsh or unusual in selecting the notification devices, however, Respondent did not extend that design feature to the smoke detection devices.

B. Respondent did not reference the proper codes. These include: (1) Improper reference for the Florida Fire Prevention Code (FFPC). The drawings only reference NFPA 101 and did not reference the Florida Amendments to NFPA 101; (2) Sheet FA-01 did not reference NFPA 1 with Florida Amendments; (3) NFPA 90A, Standard for the Installation of Air-Conditioning and Ventilating Systems and applicable Edition was not referenced for the installation of duct type smoke detectors. These omissions and errors violate Rule 61G15-32.003(2) and (4).

C. There are no directions for testing the system observed on Sheet FA01. These omissions involve (1) the lack of testing requirements for duct type smoke detectors and (2) the testing requirements for the notification system and the required audibility levels. These omissions and errors violate Rule 61G15-32.003(2).

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.” Rule 61G15-19.001(4) 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.”

9. The Respondent’s Plans for the Atlantic Project contain deficiencies including; but not limited to, those set forth in Paragraphs Three (3) through Eight (8). 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 Atlantic Project and (2) the final engineering documents for the Atlantic Project were not issued in compliance with acceptable engineering principles.

10. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, by engaging in negligence 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 26th day of March, 2024.

Zana Raybon
Executive Director

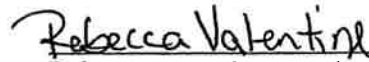

BY: John J. Rimes, III
Prosecuting Attorney

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: March 13, 2024
PCP Members: MATTHEWS, PISTORINO & RAMSEY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Respondent Jorge Fiallo, P.E. by service upon his attorney of record: Patrick J. Toomey, Esquire, Daniels Rodriguez Berkeley Daniels & Cruz, 4000 Ponce de Leon Boulevard, Suite 800, Coral Gables, Florida 33146, by certified mail and First-Class U. S. Mail, on the 26 of March, 2024.


Rebecca Valentine, Paralegal