

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date **2/16/2010**
File # **2010-00956**

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA ENGINEERS MANAGEMENT
CORPORATION,

FILED
Florida Engineers Management Corporation
Clerk

CLERK *Sandee Menge*
DATE *2-16-2010*

Petitioner,

FEMC Case No.: 2007020504

License No.: PE 15586

RICHARD P. WASILEWSKI, P.E.

Respondent.

AMENDED FINAL ORDER ADOPTING SETTLEMENT STIPULATION

THIS CAUSE came before the BOARD OF PROFESSIONAL ENGINEERS (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on December 3, 2009, in Tallahassee, Florida, for the purpose of considering a stipulation (attached hereto as Exhibit A) entered into between the parties in this cause on January 12, 2010. Upon consideration of the stipulation, the documents submitted in support thereof, the arguments of the parties, it is hereby:

ORDERED AND ADJUDGED that the 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 _____ day of January, 2010, by the Florida Board of Professional Engineers.

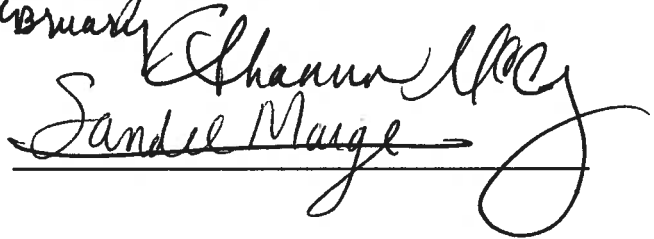


Carrie A. Flynn, Executive Director
For John Burke, P.E., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U. S. Mail to Richard Wasilewski, P.E., 1520 Chateauwood Dr., Clearwater, Florida 33764 and by interoffice mail to Michael T. Flury, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 John J. Rimes, Esquire, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303, this ~~28th~~ day of ~~January~~ ~~February~~, 2010.

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STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS

FLORIDA ENGINEERS
MANAGEMENT CORPORATION,

Petitioner,

v.

FEMC Case No. 2007020504

RICHARD P. WASILEWSKI, P.E.

Respondent,
_____ /

COUNTER STIPULATION

RICHARD P. WASILEWSKI, P.E., hereinafter referred to as "Respondent", and the Florida Engineers Management Corporation, hereinafter referred to as "FEMC", hereby stipulate and agrees to the following Counter Stipulation and Final Order of the Board, incorporating this Counter 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 15586.
2. Respondent was charged by an Administrative Complaint filed by the Florida Engineers Management Corporation, and properly served upon Respondent with violations of Chapters 471 and 455, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

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, FEMC, and the Board.

2. Respondent admits that the facts set forth in the Administrative 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 timely comply with the terms of the Final Order, this case will be submitted to the Probable Cause Panel for review and determination of whether additional disciplinary action should be taken.
3. Respondent's license shall pay an ADMINISTRATIVE FINE of \$1,000.00 and COSTS of \$1,795.00 to the Board within one hundred eighty (180) days of the date that the Final Order adopting this Counter Stipulation is filed with the Agency Clerk.
4. Respondent acknowledges that any continuing education or college level courses taken as a requirement of the terms of this Counter Stipulation may not be used to comply with the continuing education requirements of Chapter 61G15-22, Florida Administrative Code.
5. Respondent's license to practice engineering shall be REPRIMANDED.
6. Respondent shall successfully complete a Board-approved course in ENGINEERING PROFESSIONALISM AND ETHICS within one (1) year of the date the Final Order adopting this Counter Stipulation is filed. Prior to that date, Respondent shall submit to the Board a Certificate of Completion. 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, 125 South Gadsden Street, Tallahassee, Florida 32301, (850) 224-7121, for

information regarding the availability of such courses in Florida. 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
Course No. PDH-20 Basic Studies in Engineering Ethics
Telephone 806-742-3525; Fax 806-742-0444; e-mail ethics@coe.ttu.edu.

EPD Program
Auburn University
Engineering Extension Service
217 Ramsay Hall
Auburn, Alabama 3689-5331
Course No. V98E Ethics and Professionalism
Phone 800-446-0382 or 334-844-4370

National Society for Professional Engineers
PDC Buncher Commerce Park Avenue A#16
Leetsdale, Pennsylvania 15056-1304
Course No. ONL-005 Ethics & Risk Management
Phone 800-417-0348 Fax 412-741-0609

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

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

b. 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, calculations, and any other supporting documentation requested by the Consultant. Respondent

is also responsible for the Consultant's fees for reviewing the projects, and shall remit payment by check or money order made payable in the name of the Board's Consultant and shall remit said payment to the Florida Engineers Management Corporation within thirty (30) days from the date of invoice. 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.

c. If Respondent has not performed engineering services on a sufficient number of projects to make the submissions required by 7. b., the initial or, if applicable, the subsequent submission required by the terms of this Counter 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 this Counter 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, 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.

d. Should the FEMC Consultant return a favorable report after reviewing the set of plans reviewed during the first year of the project reviews, the requirements for the second year of project reviews will be waived and the requirement 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 engineering deficiencies.

8. Respondent shall successfully complete the STUDY GUIDE which has been prepared by the Board of Professional Engineers and which will be furnished to Respondent, regarding the Engineering Practice Act, Chapter 471, Florida Statutes, and the Rules of the Board of Professional Engineers. Respondent will complete and return the Study Guide within thirty (30) days of the date on which a Final Order incorporating this Settlement Counter Stipulation is filed, to the Board of Professional Engineers at 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303.


9. It is expressly understood that this Counter 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 Counter 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 Counter Stipulation. Furthermore, should this joint Counter 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 Counter Stipulation of Facts, Conclusions of Law, imposition of discipline and the Final Order of the Board incorporating said Counter Stipulation.

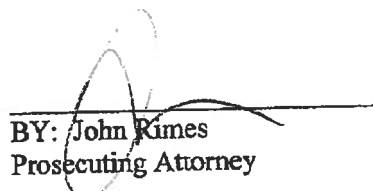
12. Respondent waives the right to seek any attorney's fees or costs from the Board in connection with this disciplinary proceeding.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.


_____, 2010
Signature and Date
Richard P. Wasilewski, P.E.
Respondent
Case No. 2007020504

APPROVED this 15th day of January, 2010.

Carrie Flynn, Executive Director
Florida Board of Professional Engineers


BY: John Rimes
Prosecuting Attorney

STATE OF FLORIDA
FLORIDA BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

v.

FEMC Case No. 2007020504

RICHARD P. WASILEWSKI, 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 RICHARD P. WASILEWSKI, 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 15586. Respondent's last known address is 1520 Chateauwood Dr., Clearwater, FL 33764.

3. Respondent prepared plans for a hip screen enclosure for a project located at 8601 Winsome Way. (Winsome Way Project)

4. Respondent prepared plans for a mansard style screen enclosure for a project described as Lake Cascade Lot 17, Block 1. (Lake Cascade Project)

COUNT I (Winsome Way Project)

5. Petitioner realleges and incorporates paragraphs one (1) through three (3) as if fully set forth in this Count I.

6. Respondent's hip screen enclosure plans are deficient in one or more of the following ways:

a. Comments on the plans indicate a Hip-Gable roof and there is some indication of a ridge location by some small parallel lines adjacent to the beams, but there is no note which neither explains the meaning of these lines nor is the roof shown on the elevation views. It is difficult to determine the shape and extent of the roof and the typical section on Sheet 2 does not specify a roof slope.

b. No roof or wall bracing is indicated or specified on Sheet 1. Some type of lateral bracing is required to resist forces on the structure from lateral wind flow. None is shown on the plans.

c. The 2X9 SMB's shown spanning 35 ft are overstressed with the then required 10 psf live load.

d. Acceptable alloys are listed as either 6063T5 or 6063T6. The T5 alloy has a maximum allowable tensile stress of 9.5 ksi while the T6 alloy has a maximum allowable tensile stress of 15 ksi. While T6 is commercially available in the market place, offering the option of utilizing the weaker alloy has a potential of creating a much weaker frame.

e. The cable wall brace detail shows a 3/32" Ø cable "(1750 lbs)". Item #8 in the general notes on the same sheet indicates that "Cables shall be 300 Series Stainless Steel of 1200 lb. strength." Searching the internet for specifications for 300 Series Stainless Steel cable produced tables that indicate, for a 3/32" Ø stainless steel "minimum breaking strength" of 1,200 lbs. A factor of safety (typically 1.5 min.) would have to be applied to this value, and, the resultant value is on a 45° slope, so that the resulting horizontal allowable force will be reduced by these 2 factors and result in a magnitude of approximately 560#. This is significantly lower than the value used in Respondent's calculations.

f. The moment splice at the ridge is a gusseted connection. The splice plates are specified as 8" deep for the 9" beam. The thickness is specified as equal to the "beam thickness". The 2X9 specified has a web thickness of .072". The plate alloy is unspecified. If it were 6061T6, a high strength plate, then its allowable bending stress would be 19ksi (on the gross section). The allowable moment for the plate would then be: $((.072" \times 2) \times 8^2/6) \times 19 \text{ ksi}$ or 29.2 kip-in. The moment calculated for the beam is 124 kip-in.

7. 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.

COUNT II (Lake Cascade Project)

8. Petitioner realleges and incorporates paragraphs one (1) through two (2) and four (4) as if fully set forth in this Count II.

9. Respondent's mansard style screen enclosure plans are deficient in one or more of the following ways:

a. The schematic plan view on Sheet 1 does not show the roof height or in this case, the mansard rise. It also is not dimensioned in such a way so that the actual 2X8 SMB beam span can be determined. While the "Structural Items" indicates a span of 20' 7", there is an offset shown for the host structure fascia and the length of the enclosure side wall is also shown at 20' 7". The dimension 20' 7" is used for the calculations, and, as 36" is a typical industry mansard rise, this is the value used for the calculation of the applied bending moment for simultaneously applied loads.

b. The three beams for this enclosure were analyzed using Visual Analysis (a finite element analysis and design program) for the spacing and span specified on the drawings with one simultaneous load case with horizontal pressure from the outside in simultaneously applied with roof uplift.

c. The columns shown are 2X4 Hollow (listed as .055", however, the typical profile sold has a 0.050" wall thickness). This column has an allowable moment of 8.7 kip-in per the included ADM requirements. Given a spacing of 97", a pressure of 15 psf, and a span of 9'8". The induced bending moment is 17 in-kips.

In Respondent's calculations for this project, the beam moments are underestimated because the horizontal and vertical wind loads were not applied simultaneously and no axial stress was considered. And while the columns were checked for simultaneous loading, the allowable compressive and allowable bending stresses were overestimated as shown in item 2 above.

d. Sheet 2 has a cable detail similar to the one presented on the Winsome Way project. The same comments apply to this project as stated in the Winsome Way comments and opinion as to cable assembly strength. A gable moment splice is shown on Sheet 3 and the same comment applies as discussed for the Winsome Way project. The gusset thickness and depth are far too small to resist the applied moment (thickness shown as 1/8" per plate), and fastener location and arrangement are not specified.

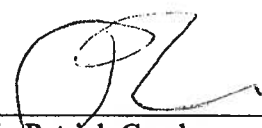
10. Based on the foregoing, Respondent is charged with violating Section 471.033(1)(g), Florida Statutes, by engaging in negligence in the practice of engineering.

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 27th day of May, 2008.

FILED
Department of Business and Professional Regulation
DEPUTY CLERK
CLERK Brandon M. Nichols
DATE 5-28-2008

Carrie Flynn
Executive Director


BY: Patrick Creehan
Prosecuting Attorney

COUNSEL FOR FEMC:

Patrick Creehan
Prosecuting Attorney
Florida Engineers Management Corporation
2507 Callaway Road, Suite 200
Tallahassee, Florida 32303
Florida Bar No. 0063540
PC/jt
PCP DATE: May 20, 2008
PCP Members: Rebane, Seckinger

FILED
Florida Engineers Management Corporation
Clerk
CLERK Wendy Gregory
DATE 5/28/08

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished to Richard P. Wasilewski, P.E., 1520 Chateauwood Dr., Clearwater, FL 33764, by certified mail, on the _____ of _____, 2008.

