

**LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD  
9643 BROOKLINE AVENUE, SUITE 121  
BATON ROUGE, LOUISIANA 70809-1443  
(225) 925-6291**

<b>IN THE MATTER OF:</b>	)	<b>CASE NO. 2009-2</b>
	)	
<b>WALTER J. FITZGERALD, P.E.</b>	)	
	)	
<b>RESPONDENT</b>	)	
	)	
	)	
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**CONSENT ORDER**

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the “Board”], by and through its Executive Secretary, pursuant to authorization by the Board, and Walter J. Fitzgerald, P.E. [hereinafter “Respondent”], hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as a professional engineer, number PE – 29678.

An investigation was opened based upon the Board’s receipt of information and documents from the Florida Board of Professional Engineers [hereinafter the “Florida Board”] which disclosed that it had taken disciplinary action against Respondent for (a) signing, sealing and dating an Electrical Photometric Site Plan and signing a certification letter (containing engineering opinions and conclusions) for the Melrose Apartments in West Palm Beach, Florida which were not prepared by Respondent or under his responsible supervision, direction and control, (b) failing to seal the certification letter and (c) signing the certification letter on behalf of and in the name of an unlicensed firm. In a Settlement Stipulation dated July 10, 2008 and adopted on December 10, 2008 in connection with Case No. 2007005175, the Florida Board (a) suspended Respondent’s Florida license, but stayed the suspension if Respondent paid an administrative fine of \$5,000 and costs of \$195; (b) ordered Respondent to appear before the Florida Board to discuss his understanding of the definition of responsible charge and the responsibilities the engineer of record must perform; (c) reprimanded Respondent’s Florida license and (d) placed Respondent on probation for 18 months, with the requirement that he (i) successfully complete a Florida Board-approved course in engineering professionalism and ethics, (ii) submit to the Florida Board a detailed list of his completed projects for project review

at twelve months from the date of the final order and (iii) successfully complete the Florida Board's study guide.

La. R.S. 37:698(A)(7) authorizes the Board to take disciplinary action against a licensee of the Board who has been disciplined by the licensing authority of another state, territory or district of the United States for a matter recognized as a ground for disciplinary action in Louisiana at the time the action was taken. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3), prohibit licensees from signing and sealing of plans not prepared under their responsible charge. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(a)(i) requires a licensee to affix his/her seal all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(7), *to wit* La. R.S. 37:698(A)(6), LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 2701(A)(4)(a)(i), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:698(A)(6) and (7), La. R.S. 37:698(H), and LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3) and (4)(a)(i) were in effect at all times material hereto.

It is undisputed that Respondent was disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana at the time the action was taken.

By letter dated August 25, 2009 the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that he may have violated La. R.S. 37:698(A)(7), *to wit* La. R.S. 37:698(A)(6), LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 2701(A)(4)(a)(i), relative to having been disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana at the time the action was taken.

Wishing to dispense with the need for further disciplinary action and to conclude the instant proceeding without further delay and expense, for the purpose of this proceeding only, Respondent and the Board do hereby enter into this Consent Order, in which Respondent of his own free will consents to the issuance of a Consent Order by the Board, wherein Respondent

agrees to (a) pay a fine of two hundred fifty (\$250.00) dollars; (b) pay administrative costs of two hundred forty-two and 76/100 (\$242.76) dollars; (c) successfully complete the Board's online Louisiana Laws and Rules Examination; and (d) the publishing of this Consent Order on the Board's website and a summary of this matter in the Board's official journal, the Louisiana Engineer and Surveyor Journal, and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name.

Respondent admits to violations of the referenced statutes and/or rules regarding being disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana at the time the action was taken. Respondent acknowledges awareness of said laws and/or rules and states that he will comply with all applicable laws and rules henceforth. Respondent has been advised of his right to be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and present witnesses and evidence in his own behalf, and he hereby waives this right and his right to appeal; and he states affirmatively that he has been afforded all administrative remedies due him under the law.

Therefore, in consideration of the foregoing and by his signing this Consent Order, Respondent does hereby waive his right to a hearing before the Board, to the presenting of evidence and witnesses in his behalf, to Findings of Fact and Conclusions of Law in this case, and to judicial review of this Consent Order.

Respondent hereby represents (a) that he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) that he has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with him by any person whatsoever to cause the execution of this instrument and (c) that the sanctions set forth in this Consent Order do not prevent the Board from taking further disciplinary or enforcement action against Respondent on matters not specifically addressed in this Consent Order.

WHEREFORE, the Louisiana Professional Engineering and Land Surveying Board and Respondent agree that:

1. Respondent shall pay a fine of two hundred fifty (\$250.00) dollars, which shall be tendered to the Board by a certified check payable to the Board, due upon the signing of this Consent Order; and

2. Respondent shall pay administrative costs of two hundred forty-two and 76/100 (\$242.76) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

3. Respondent shall successfully complete the Board's online Louisiana Laws and Rules Examination with a score of 90% or higher and return it to the Board within sixty (60) days of the effective date of this Consent Order; and

4. This Consent Order shall be published on the Board's website and a summary of this matter shall be printed in the official journal of the Board, the Louisiana Engineer and Surveyor Journal, and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name; and

5. This Consent Order shall not become effective unless and until it is accepted and signed by and on behalf of the Board. Should the Board not accept and sign this Consent Order, it is agreed that presentation of this matter to the Board shall not prejudice the Board or any of its members from further participation, consideration or resolution of any further proceedings herein.

LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD

DATED 9/22/2009

BY: Donna D. Sentell  
DONNA D. SENTELL, Executive Secretary

DATED 9/22/09

Walter J. Fitzgerald  
WALTER J. FITZGERALD, P.E., Respondent

Witnesses to the signature of  
Walter J. Fitzgerald, P.E.

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