

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

Received
AUG 14 2013
By LAPELS Enforcement

IN THE MATTER OF:) CASE NO.: 2013-41
)
JOHNSON, SPELLMAN)
& ASSOCIATES, INC.)
)
RESPONDENT)
)
_____)

CONSENT ORDER

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the "Board"], by and through its Executive Director, pursuant to authorization by the Board, and Johnson, Spellman & Associates, Inc. [hereinafter "Respondent"], by and through its duly authorized undersigned representative, hereby agree to the following:

At all times material hereto, Respondent was not licensed in the State of Louisiana as a professional engineering firm and, therefore, was not authorized to practice and/or offer to practice engineering in the State of Louisiana. Respondent subsequently became licensed in the State of Louisiana as a professional engineering firm, number EF-5274, effective March 18, 2013.

An investigation was opened based the Board's receipt of an Application for Firm Licensure, in which Respondent admitted that it had engaged in the unlicensed practice or offering to practice engineering in Louisiana. The investigation disclosed that between 2008 and February 2013 Respondent admittedly provided engineering services on twenty-six (26) projects in Louisiana, which included approximately twenty-two (22) such projects in Louisiana between 2009 and February 2013.

The investigation also disclosed that Respondent stated in its Application for Firm Licensure, dated February 21, 2013, that its engineering licenses in other states had never been the subject of disciplinary action by such states. However, in 1999 the South Carolina Board of Registration for Professional Engineers & Land Surveyors [hereinafter the "South Carolina Board"] had taken disciplinary action against Respondent for the unlicensed practice of engineering in South Carolina. In a Consent Order dated July 27, 1999 in connection with Case

No. 991852694, the South Carolina Board ordered Respondent to, among other things, accept a public reprimand and pay a \$1,000 fine.

La. R.S. 37:681 and 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), prohibit the practicing of and/or offering to practice engineering in Louisiana without proper licensure. La. R.S. 37:700(A)(3) prohibits any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license. La. R.S. 37:700(H) permits the Board to take enforcement action against persons who violate La. R.S. 37:681 and 37:700(A)(1), (3) and (9), *to wit* LAC Title 46:LXI§2301(B), 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. 37:681, La. R.S. 37:700(A)(1), (3) and (9), La. R.S. 37:700(H) and LAC Title 46:LXI§2301(B) were in effect at all times material hereto.

It is undisputed that **(a)** between 2008 and February 2013 Respondent was not licensed to practice and/or offer to practice engineering in Louisiana, **(b)** during this time period Respondent practiced and/or offered to practice engineering in Louisiana without proper licensure and **(c)** Respondent provided false information on its application for firm licensure to the Board.

By letter dated July 26, 2013 the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that it may have violated **(a)** La. R.S. 37:681 and 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), relative to practicing and/or offering to practice engineering in Louisiana without proper licensure and **(b)** La. R.S. 37:700(A)(3), relative to the commission of any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license.

Wishing to dispense with the need for further enforcement 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 its own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to **(a)** pay a fine of five thousand (\$5,000.00) dollars; **(b)** pay administrative costs of three hundred thirty three and 19/100 (\$333.19) dollars; and **(c)** the publication 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 laws and/or rules regarding (a) the practicing of and/or offering to practice engineering in Louisiana without proper licensure and (b) the commission of any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license. Respondent acknowledges awareness of said laws and/or rules and states that it will comply with all applicable laws and rules henceforth. Respondent has been advised of its right to be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and to present witnesses and evidence in its own behalf, and it hereby waives this right and its right to appeal; and it states affirmatively that it has been afforded all administrative remedies due it under the law. Respondent further acknowledges awareness of the fact that the signed original of this Consent Order will remain in the custody of the Board as a public record and will be made available for public inspection and copying upon request.

Therefore, in consideration of the foregoing and by signing this Consent Order, Respondent does hereby waive its right to a hearing before the Board, to the presenting of evidence and witnesses in its 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 it fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, **(b)** that it has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with it 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 five thousand (\$5,000.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

2. Respondent shall pay administrative costs of three hundred thirty three and 19/100 (\$333.19) 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. 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

4. 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, staff, attorneys or representatives from further participation, consideration or resolution of any further proceedings herein.

LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD

DATE: 9/16/13 BY: Donna D. Sentell

DONNA D. SENTELL, Executive Director

JOHNSON, SPELLMAN & ASSOCIATES, INC.,
Respondent

DATE: 8/12/13 BY: Floyd E. Spellman III
FLOYD E. SPELLMAN III, P.E., President

Witnesses to the signature of
Johnson, Spellman & Associates, Inc.

Christine Riccardi
Print Name: Christine Riccardi

Dawn North
Print Name: Dawn E North