

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

IN THE MATTER OF:) CASE NO. 2018-54
ERIC J. KIRSTEIN, P.E.) **Received**
RESPONDENT) **NOV 07 2018**
)
) **By LAPELS Enforcement**

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 Eric J. Kirstein, P.E. [hereinafter “Respondent”] hereby agree to the following:

At all times material hereto, Respondent was a licensed in the State of Louisiana as a professional engineer, number PE-38925. At all times material hereto, Respondent’s firm, Hitachi Architects & Engineers Co. Ltd. [hereinafter “HAE”], was not licensed as a professional engineering firm. HAE became licensed in Louisiana as a professional engineering firm, number EF-6443 on May 11, 2018.

An investigation was opened based upon the Board’s receipt of HAE’s application for licensure as a professional engineering firm in Louisiana wherein Respondent indicated that his firm had engaged in the unlicensed practice of and/or offer to practice engineering in Louisiana. The investigation disclosed that between October 2014 and May 11, 2018 Respondent unintentionally aided and assisted his firm in the unlicensed practice of and/or offer to practice engineering in the State of Louisiana on five (5) projects.

La. R.S. 37:681 and La. R.S. 37:700(A)(1), (7) and (9), *to wit* LAC Title 46:LXI§2301(B), collectively prohibit the practice and/or offer to practice of engineering, and use of the words “engineer”, “engineering”, or any modifications or derivatives thereof without proper licensure. La. R.S. 37:698(A)(12) prohibits licensees from aiding and assisting any person in violating the laws and rules of the Board. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(12), 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. 37:698(A)(12), La. R.S. 37:700(A)(1), (7) and (9), La. R.S. 37:698(H) and LAC Title 46:LXI§2301(B) were in effect at all times material hereto.

It is undisputed that **(a)** at all times material hereto, Respondent was an officer and employee of HAE, **(b)** HAE was not licensed as a professional engineering firm in State of Louisiana, and **(c)** between October 2014 and May 11, 2018 Respondent unintentionally aided and assisted his firm in the unlicensed practice of engineering on five (5) projects in Louisiana.

By letter dated October 19, 2018, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that Respondent may have violated La. R.S. 37:698(A)(12), relative to aiding and assisting his firm in the unlicensed practice of engineering in Louisiana.

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 Five Hundred and No/100 (\$500.00) Dollars, **(b)** pay administrative costs of One Hundred Forty-Five and 39/100 (\$145.39) Dollars, **(c)** successfully complete the Board's online Louisiana Laws and Rules Quiz, **(d)** successfully complete the Board's online Louisiana Professionalism and Ethics Quiz, and **(e)** 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 that his conduct as set forth above constitutes violations of the above referenced laws and/or rules as stated herein. 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 an informal conference, 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, 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.

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 his right to an informal conference, to a hearing before the Board, to the presenting of evidence and witnesses on his behalf, to Findings of Fact and Conclusions of Law in this case, and to judicial review of this Consent Order.

Respondent hereby represents that (a) he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) he 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) 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 Hundred and no/100 (\$500.00) 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 One Hundred Forty-Five and 39/100 (\$145.39) 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 Quiz 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. Respondent shall successfully complete the Board's online Louisiana Professionalism and Ethics Quiz 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
5. 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

6. 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: January 22, 2019

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

DATE: OCT 30, 2018

BY: Eric Kirstein
ERIC J. KIRSTEIN, P.E., Respondent

Witnesses to the signature of
Eric J. Kirstein, P.E.

Taketoshi Kawaguchi
Print Name: TAKETOSHI KAWAGUCHI

Noriyuki Watanabe
Print Name: NORIYUKI WATANABE

Approved by:

Larry M. Roedel

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