

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.: 2012-29
)	
KAHUNA VENTURES LLC)	
)	
RESPONDENT)	
)	
)	
)	

Received
NOV 02 2012
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 Kahuna Ventures LLC [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-5032, effective February 29, 2012.

An investigation was opened based upon the Board's receipt of an Application for Firm Licensure, in which Respondent admitted that it had engaged in the unlicensed practice of and/or offering to practice engineering in Louisiana. The investigation disclosed that in 2009-10 Respondent provided engineering services for the design and construction of certain, but not all, portions of EXCO Resources, Inc.'s Holly 6 and Holly 3 natural gas processing facilities (the "Plants") located in Louisiana. Those services did not include the provision of engineering services on any of the processing skids at the Plants. The investigation further disclosed that those services included (a) plot plan development, (b) pipe rack layout, (c) piping and instrumentation diagram drafting for

those portions of the Plants designed by Respondent, **(d)** sizing of relief and control valves on those portions of the Plants designed by Respondent, **(e)** electrical cable tray layout, grounding, starter motor sizing and emergency beacon/horn layout, **(f)** process hazards analysis for those portions of the Plants designed by Respondent, and **(g)** on-site review of those portions of the Plants designed by Respondent.

La. R.S. 37:681 and 37:700(A)(1) prohibit the practicing of and/or the offering to practice engineering in Louisiana without proper licensure. 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), 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) and La. R.S. 37:700(H) were in effect at all times material hereto.

It is undisputed that at all times material hereto Respondent was not licensed to practice and/or offer to practice engineering in Louisiana and that in 2009-10 Respondent practiced and/or offered to practice engineering in Louisiana without proper licensure.

By letter dated September 17, 2012, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that it may have violated La. R.S. 37:681 and 37:700(A)(1), relative to practicing and/or offering to practice engineering in Louisiana without proper licensure.

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 two thousand five hundred (\$2,500.00) dollars; **(b)** pay administrative costs of four hundred ninety eight

and 84/100 (\$498.84) 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 (provided, however, that Respondent will have an opportunity to review the summary prior to publication and any factual inaccuracies noted by Respondent shall be corrected by the Board prior to publication), and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name. Within ten (10) days of the reporting of this matter to NCEES, the Board shall confirm, in writing, to Respondent that its report to NCEES was factually accurate, did not specifically name any current or past employee of Respondent and was not associated with any current or past employee of Respondent.

Respondent admits to violations of the referenced laws and/or rules regarding the practicing of and/or offering to practice engineering in Louisiana without proper licensure. Respondent acknowledges it is now aware 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 two thousand five hundred (\$2,500.00) 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 four hundred ninety eight and 84/100 (\$498.84) 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 (provided, however, that Respondent will have an opportunity to review the summary prior to publication and any factual inaccuracies noted by Respondent shall be corrected by the Board prior to publication), and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name; and
4. Within ten (10) days of the reporting of this matter to NCEES, the Board shall confirm, in writing, to Respondent that its report to NCEES was factually accurate, did not specifically name any current or past employee of Respondent and was not associated with any current or past employee of Respondent; and

5. This Consent Order shall not become effective unless and until it is accepted by and on behalf of the Board. Should the Board not accept and sign this Consent Order: (a) 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 and (b) the Board shall be prohibited from using any statement or admission contained herein against Respondent without independent evidence establishing same.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

DATE: 11/19/12

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

KAHUNA VENTURES LLC, Respondent

DATE: _____

BY: Gary Davis
GARY DAVIS, President

Witnesses to the signature of
Kahuna Ventures LLC

Scott T. Schamp
Print Name: Scott T. Schamp

John H. Rheinheimer
Print Name: John H. Rheinheimer

Approved by:

SCOTT M. AYLER
SCOTT M. AYLER, General Counsel to Respondent