

**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. 2013-63
)	
DARRELL R. FUSSELL, P.E.)	
)	
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 Darrell R. Fussell, 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-23834.

An investigation was opened based upon the Board’s receipt of information and documents which suggested that Respondent may have committed various violations of the Board’s laws and/or rules in connection with his practice of engineering in Louisiana. The investigation disclosed that in January 2013 Respondent sealed, signed and issued a set of engineering design plans for a metal building for Tack N Treasures in Amite, Louisiana and in March 2013 Respondent sealed, signed and issued a set of engineering design plans for a metal building for S & H Automotive in Hammond, Louisiana.

The investigation also disclosed that the plans for Tack N Treasures, which were submitted to the Louisiana State Fire Marshal [hereinafter “LSFM”] for review, included the following material deficiencies:

- a) failure to provide site elevation, ADA and ABA Accessibility Guidelines [hereinafter “ADA-ABA”] information or detailing, thus the need for stairs, ramps or handrails could not be determined by the LSFM;
- b) failure to provide site elevations for steps, stairs and ramps in accordance with the ADA-ABA;

- c) failure to provide correct footing depths in accordance with the International Building Code [hereinafter “IBC”];
- d) failure to provide bearing loads over footings;
- e) failure to provide access details or dimensions for persons with disabilities in accordance with the ADA-ABA;
- f) failure to provide correct location for illumination of means of egress, including exterior exit discharge, in accordance with the National Fire Protection Association Life Safety Code [hereinafter “NFPA”] and IBC;
- g) failure to provide portable fire extinguishers in accordance with the NFPA;
- h) failure to include latest edition date for interior finish in accordance with the NFPA;
- i) failure to provide correct reference for concealed and exposed insulation in accordance with the IBC;
- j) failure to provide an accessible route on the site from parking to building entrance in accordance with the ADA-ABA;
- k) failure to submit energy code compliance documents in accordance with La. R.S. 40:1730.45; and
- l) failure to provide an accessible route on the site from parking to building entrance in accordance with the ADA-ABA.

Additionally, the investigation disclosed that the plans for S & H Automotive, which were also submitted to the LSFM for review, included the following material deficiencies:

- a) failure to provide access details or dimensions for persons with disabilities in accordance with the ADA-ABA;
- b) failure to provide a clearance around the water closet in accordance with the ADA-ABA;
- c) failure to provide stairs and ramps that have handrails on both sides in accordance with the NFPA and IBC;
- d) failure to provide NFPA and IBC compliant stairs; and

e) failure to provide proper guard rails that are at least 42” high when a change in elevation exceeds 30” in accordance with the NFPA and IBC.

Furthermore, the investigation disclosed that (a) the plans for the S & H Automotive project were prepared by an unlicensed person (Brad Tircuit) who was not employed by Respondent, (b) the plans for the Tack N Treasures project were prepared by an unlicensed person (Becky Harper) who was not employed by Respondent and (c) Respondent did not exercise responsible charge over the preparation of the plans by Tircuit and Harper.

The investigation also disclosed that since at least 2010 Respondent has been designing buildings and/or building systems in Louisiana.

On September 28, 2012, Respondent submitted to the Board his 2012 Louisiana professional engineer license renewal invoice, confirming thereon that **(a)** he had met the Board’s requirements for continuing professional development [hereinafter “CPD”] for active status for the biennial licensure renewal period of October 1, 2010 to September 30, 2012, **(b)** if selected for a CPD audit by the Board he would be required to submit the appropriate documentation to validate completion of all CPD requirements and **(c)** failure to comply with such CPD requirements or any false statements made by him could be cause for disciplinary action by the Board.

In 2013 the Board audited Respondent’s CPD records. In responding to the CPD audit, Respondent failed to produce the appropriate documentation to prove that, for the biennial licensure renewal period of October 1, 2010 to September 30, 2012, he had earned the required minimum of eight (8) professional development hours [hereinafter “PDHs”] in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines.

La. R.S. 37:698(A)(1) prohibits licensees from committing any fraud, deceit, material misstatement or perjury, or the giving of any false or forged evidence, in applying for a renewal license with the Board. La. R.S. 37:698(A)(2) prohibits licensees from committing any gross negligence and gross misconduct in the practice of engineering. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C), require licensees to approve and seal only those design documents which are safe for public health, property and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to

applicable laws and ordinances. 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 sealing, signing or issuing engineering documents not prepared by the licensee or under their responsible charge. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§3105(A)(2), require professional engineer licensees who design buildings and/or building systems to earn a minimum of eight (8) PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines during each biennial licensure renewal period. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(1) and (2) and La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 3105(A)(2), 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)(1), (2) and (6), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 3105(A)(2) were in effect at all times material hereto.

It is undisputed that **(a)** in January and March 2013 Respondent sealed, signed and issued two sets of engineering design plans for metal buildings in Louisiana which contained a number of material deficiencies, **(b)** the plans were prepared by unlicensed persons who were not employed by Respondent, **(c)** Respondent did not exercise responsible charge over the preparation of the plans by the unlicensed persons, **(d)** since at least 2010 Respondent has been designing buildings and/or building systems in Louisiana, **(e)** on September 28, 2012 Respondent submitted to the Board his 2012 Louisiana professional engineer license renewal invoice, which confirmed that he had met the Board's CPD requirements for active status for the biennial licensure renewal period of October 1, 2010 to September 30, 2012 and **(f)** Respondent failed to earn (and falsely stated that he had earned) the required minimum of eight (8) PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines for the biennial licensure renewal period of October 1, 2010 to September 30, 2012.

By letter dated June 20, 2016, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that he may have violated **(a)** La. R.S. 37:698(A)(1), relative to fraud, deceit, material misstatement or perjury, or the giving of any false or forged evidence, in applying for a renewal license with the Board, **(b)** La.

R.S. 37:698(A)(2), relative to gross negligence and gross misconduct in the practice of engineering, **(c)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C), relative to approving and sealing only those design documents which are safe for public health, property and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to applicable laws and ordinance, **(d)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3), relative to sealing, signing or issuing engineering documents not prepared by the licensee or under their responsible charge; and **(e)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§3105(A)(2), relative to the Board's CPD requirements.

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)** his Louisiana professional engineer license being placed on probation for a period of three (3) years [hereinafter the "Probation Period"] beginning on January 1, 2017; **(b)** submit to the Board, on a quarterly basis during the Probation Period and beginning on January 1, 2017, a complete and detailed list of current projects on which he is providing engineering services and projects on which he provided engineering services during the preceding quarter; **(c)** submit to the Board, within five (5) business days of a Board request, all documents relating to any project on any of said current or quarterly lists of projects; **(d)** pay-in-full, within thirty (30) days of a Board request, any administrative costs incurred by the Board in connection with reviewing any of said documents submitted by Respondent; **(e)** the immediate suspension of his Louisiana professional engineer license if he fails to comply with any portion of this Consent Order, with said suspension continuing until he so complies; **(f)** earn an additional eight (8) PDHs each year for the next four (4) calendar years beginning in 2017 in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines, with these PDHs not being obtained online and being in addition to those PDHs which Respondent is required to earn to satisfy his normal CPD requirements for active status; **(g)** promptly submit to the Board each year the appropriate documentation to substantiate the earning of these additional eight (8) PDHs

per year; **(h)** pay a fine of five thousand and no/100 (\$5,000.00) dollars; **(i)** pay administrative costs of two thousand three hundred sixty-six and 50/100 (\$2,366.50) dollars; **(j)** successfully complete the Board's online Louisiana Laws and Rules Quiz; **(k)** successfully complete the Board's online Louisiana Professionalism and Ethics Quiz, and **(l)** 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 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 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 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 him 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's Louisiana professional engineer license, number PE-23834, shall be placed on probation for a period of three (3) years beginning on January 1, 2017; and
2. Respondent shall submit to the Board, on a quarterly basis during the Probation Period and beginning on January 1, 2017, a complete and detailed list of current projects on which he is providing engineering services and projects on which he provided engineering services during the preceding quarter; and
3. Respondent shall submit to the Board, within five (5) business days of a Board request, all documents relating to any project on any of said current or quarterly lists of projects; and
4. Respondent shall pay-in-full any administrative costs incurred by the Board in connection with reviewing any of said documents submitted by Respondent, which payments shall be tendered to the Board by certified check payable to the Board and due within thirty (30) days of a Board request; and
5. Respondent's Louisiana professional engineer license, number PE-23834, shall be immediately suspended if he fails to comply with any portion of this Consent Order, with said suspension continuing until he so complies; and
6. Respondent shall earn an additional eight (8) PDHs each year for the next four (4) calendar years beginning in 2017 in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines, with these PDHs not being obtained online and being in addition to those PDHs which Respondent is required to earn to satisfy his normal CPD requirements for active status; and
7. Respondent shall promptly submit to the Board each year the appropriate documentation to substantiate the earning of these additional eight (8) PDHs per year; and
8. Respondent shall pay a fine of five thousand and no/100 (\$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

9. Respondent shall pay administrative costs of two thousand three hundred sixty-six and 50/100 (\$2,366.50) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

10. 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

11. 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

12. 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

13. 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: 11/14/16

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

DATE: 10-11-16

Darrell R. Fussell
DARRELL R. FUSSELL, P.E., Respondent

Witnesses to the signature of
Darrell R. Fussell, P.E.

Amanda Stump
Print Name: Amanda Stump

Kathryn J. Edwards
Print Name: Kathryn J. Edwards

Approved by:



Bradley A. Stevens
EDWARDS & STEVENS LAW FIRM
102 N. Myrtle Street
Amite, Louisiana 70422
Telephone: (985) 747-1088
Facsimile: (985) 747-1086

Attorneys for Darrell R. Fussell, P.E.