

**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. 2013-67
)	
GURTLE BROS.)	
CONSULTANTS, 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 Gurtler Bros. Consultants, Inc. [hereinafter “Respondent”], by and through its duly authorized undersigned representative, hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as a professional engineering firm, number EF-2475. At all times material hereto, Michael K. A. Gurtler was not licensed in the State of Louisiana as a professional engineer and, therefore, was not authorized to practice and/or offer to practice engineering in the State of Louisiana. At all times material hereto, Mr. Gurtler was the President and an owner of Respondent.

An investigation was opened based upon the Board’s receipt of a sworn affidavit of complaint which suggested that Respondent may have violated the laws and/or rules of the Board.

The investigation disclosed that in 2013 Mr. Gurtler (on behalf of and in the name of Respondent) prepared, signed and issued to a client in Louisiana an inspection report relative to hailstorm damage to a residence at 10 Darby Court in Marrero, Louisiana. The client requested that Mr. Gurtler prepare the inspection report in order to rebut an engineering report prepared by an engineering firm for the property insurer of the residence. Mr. Gurtler’s report (a) identified Mr. Gurtler as the President of Respondent, (b) described Respondent as a Louisiana-licensed professional engineering firm which engages in the business of “engineering and inspections” and provides “engineering services” and (c) stated that the inspection report was an “instrument of professional service” and was a “professional opinion”. The reference to Respondent being a

Louisiana-licensed professional engineering firm was accompanied by Respondent's licensure number and was placed directly above Mr. Gurtler's signature, name and title.

The investigation also disclosed that in 2013, prior to his preparation of the inspection report, Mr. Gurtler (on behalf of and in the name of Respondent) gave to the client both (a) his curriculum vitae which (i) identified Mr. Gurtler as the President of Respondent and (ii) described Respondent as a firm which engages in the business of "engineering and inspections" and provides "engineering services"; and (b) his "expert testimony record" which described Respondent as a firm which engages in the business of "engineering and inspections" and provides "engineering services".

La. R.S. 37:698(A)(2) prohibits licensees from committing any fraud, deceit, gross negligence, material misrepresentation, gross incompetence, or gross misconduct in the practice of engineering in Louisiana. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(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)(2) and (H) were in effect at all times material hereto.

It is undisputed that **(a)** at all times material hereto Mr. Gurtler was not licensed to practice and/or offer to practice engineering in Louisiana, **(b)** in 2013 Mr. Gurtler (on behalf of and in the name of Respondent) prepared, signed and issued an inspection report relative to hailstorm damage to a residence in Louisiana, **(c)** the client had requested that Mr. Gurtler prepare the inspection report in order to rebut an engineering report prepared by an engineering firm for the property insurer of the residence, **(d)** Mr. Gurtler's report described Respondent as a Louisiana-licensed professional engineering firm which engages in the business of "engineering and inspections" and provides "engineering services" and stated that the inspection report was an "instrument of professional service" and was a "professional opinion", **(e)** the reference to Respondent being a Louisiana-licensed professional engineering firm was accompanied by Respondent's licensure number and was placed directly above Mr. Gurtler's signature, name and title, **(f)** in 2013, prior to his preparation of the inspection report, Mr. Gurtler (on behalf of and in the name of Respondent) gave to the client both his curriculum vitae and his "expert testimony

record” which described Respondent as a firm which engages in the business of “engineering and inspections” and provides “engineering services” and (g) these actions on behalf of and in the name of Respondent constituted a material misrepresentation or gross misconduct in the practice of engineering in Louisiana.

By letter dated July 29, 2014, 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. 37:698(A)(2), relative to committing a material misrepresentation and gross misconduct in the 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 its own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to (a) pay a fine of one thousand (\$1,000.00) dollars; (b) pay administrative costs of seven hundred sixty and 17/100 (\$760.17) dollars; (c) ensure that its employees and representatives immediately cease and desist the use of the words “engineer”, “engineering” or any modification or derivative thereof in referring to themselves, in conjunction with their names or in describing or promoting their business or activities in Louisiana until such time as they are duly licensed by the Board; (d) have its supervising professional successfully complete the Board’s online Louisiana Laws and Rules Quiz; (e) have its supervising professional successfully complete the Board’s online Louisiana Professionalism and Ethics Quiz; and (f) 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 its 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 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 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 one thousand (\$1,000.00) 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 seven hundred sixty and 17/100 (\$760.17) 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 ensure that its employees and representatives immediately cease and desist the use of the words "engineer", "engineering" or any modification or derivative thereof in referring to themselves, in conjunction with their names or in describing or promoting their business or activities in Louisiana until such time as they are duly licensed by the Board; and

4. Respondent shall have its supervising professional 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

5. Respondent shall have its supervising professional successfully complete the Board's online Louisiana Professionalism and Ethics Quiz and return it to the Board within sixty (60) days of the effective date of this Consent Order; and

6. 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

7. 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: 28 January 2015

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

GURTLER BROS. CONSULTANTS, INC.,
Respondent

DATE: 11/18/14

BY: Michael K. A. Gurtler
MICHAEL K. A. GURTLE, President

Witnesses to the signature of
Gurtler Bros. Consultants, Inc.

Albert Niccace
Print Name: Albert Niccace

Tyson Durst
Print Name: Tyson Durst