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NOV 09 2015
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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.: 2013-98
)	
DAVID F. BOUDREAUX, 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 David F. Boudreaux, 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-28239.

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 2013 Respondent sealed, signed and issued to his client and the Louisiana State Fire Marshal a set of engineering design plans for a new restaurant and two mercantile spaces for JAM Residential Contracting in Thibodaux, Louisiana.

The investigation also disclosed that the submitted plans included the following material deficiencies:

- a) failure to provide drawings and/or specifications as required by La. R.S. 40:1574 and La. R.S. 40:1730.39(A);
- b) failure to use the most restrictive life safety requirements where two or more classes of occupancy occur in the same building or structure and are intermingled, in accordance with the National Fire Protection Association [hereinafter “NFPA”] and International Building Code [hereinafter “IBC”] requirements;
- c) failure to include a complete, valid submission of Commercial Building Energy Conservation Code compliance documents;

- d) failure to provide access for persons with disabilities in accordance with the ADA-ABA Accessibility Guidelines [hereinafter “ADA-ABA”];
- e) failure to satisfy the requirements of the IBC concerning insulation and insulation assemblies;
- f) failure to use NFPA and IBC compliant locks on doors that open in the direction of egress;
- g) failure to enclose interior stairs with 1-hour fire resistive construction including self-closing 1-hour labeled door/frame assemblies in accordance with the NFPA and IBC requirements;
- h) failure to design NFPA and IBC compliant landings and stairs in compliance with the appropriate Stair Table and the ADA-ABA;
- i) failure to design NFPA and IBC compliant handrails;
- j) failure to separate enclosed usable space under an exit stair enclosure from the enclosure with the same fire resistance rating as required for the enclosure;
- k) failure to design NFPA, IBC and ADA-ABA compliant areas of refuge;
- l) failure to separate balconies used for egress from the interior of the building by walls and opening protectives as required for corridors per the IBC;
- m) failure to provide illumination of means of egress, including exterior exit discharge, in accordance with the NFPA and IBC requirements;
- n) failure to provide emergency lighting, including exterior exit discharge, in accordance with the NFPA and IBC requirements;
- o) failure to protect vertical openings in accordance with the NFPA requirements;
- p) failure to design fire compartments in accordance with the NFPA requirements;
- q) failure to design draftstop attic into areas not to exceed 3,000 sq. ft. each in accordance with the NFPA requirements;
- r) failure to include design details on cooking hood construction/installation in accordance with the NFPA requirements;

- s) failure to provide fixed automatic fire extinguishing equipment systems as primary protection for all cooking equipment that produces grease laden vapors and portable fire extinguishers as secondary back-up in accordance with the NFPA requirements;
- t) failure to design the HVAC system in accordance with the IBC; and
- u) failure to include smoke detectors in HVAC duct systems over 2,000 cfm in accordance with the NFPA requirements.

Additionally, the investigation disclosed that since at least 2011 Respondent has been designing buildings and/or building systems in Louisiana.

On March 29, 2013, Respondent submitted to the Board his 2013 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 April 1, 2011 to March 31, 2013, **(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 began auditing Respondent's CPD records. On October 8, 2013, the Board notified Respondent by certified mail, return receipt requested, to provide certain information relating to possible violations of the Board's laws and/or rules involving the above referenced project for JAM Residential Contracting in Thibodaux, Louisiana and to submit within fifteen (15) days the appropriate documentation to validate completion of all CPD requirements for active status for the biennial licensure renewal period of April 1, 2011 to March 31, 2013. Respondent received this notice on October 17, 2013; however, the Board received no response from Respondent to this notice. On November 19, 2013 and August 15, 2014, the Board again notified Respondent by certified mail, return receipt requested, to provide certain information relating to possible violations of the Board's laws and/or rules involving the above referenced project and to submit within fifteen (15) days his CPD records for the biennial licensure renewal period of April 1, 2011 to March 31, 2013. Respondent received these notices

on December 4, 2013 and November 1, 2014, respectively; however, once again the Board received no response from Respondent to these notices.

On or about February 2, 2015, the Board notified Respondent to submit by March 31, 2015 his CPD records for the biennial licensure renewal period of April 1, 2013 to March 31, 2015. On April 1, 2015, Respondent replied to this audit and submitted his CPD records for that period.

On April 15, 2015, Respondent finally replied to the CPD audit for the biennial licensure renewal period of April 1, 2011 to March 31, 2013; however, he failed to produce the appropriate documentation to prove that, for such period, he had earned **(a)** the required thirty (30) professional development hours [hereinafter “PDHs”] in engineering-related activities, **(b)** the required one (1) PDH in professional ethics and **(c)** the required minimum of eight (8) PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines.

On May 13, 2015, the Board notified Respondent by certified mail, return receipt requested, to submit within fifteen (15) days his project file for the above referenced project for JAM Residential Contracting in Thibodaux, Louisiana. Respondent received this notice on May 16, 2015; however, the Board received no response from Respondent to this notice.

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 in Louisiana. 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§3105(A), require professional engineer licensees to obtain thirty (30) PDHs in engineering-related activities during each biennial licensure renewal period, with at least one (1) PDH being in professional ethics. 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(A)(6), *to wit* LAC Title 46:LXI§3115, 3117 and 3119, require licensees to maintain certain documentation of compliance with the Board's CPD requirements and to provide proof of such compliance to the Board upon request. La. R.S. 37:698(A)(10) requires licensees to provide, within thirty (30) calendar days of receipt of notice by certified mail, information or documents requested by the Board relating to any alleged violation of the Board's laws or rules. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(1), La. R.S. 37:698(A)(2), La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C), 3105(A), 3115, 3117 and 3119, and La. R.S. 37:698(A)(10), 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), (6) and (10), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(C), 3105(A), 3115, 3117 and 3119 were in effect at all times material hereto.

It is undisputed that **(a)** in 2013 Respondent sealed, signed and issued to his client and the Louisiana State Fire Marshal a set of engineering design plans for a new restaurant and two mercantile spaces in Louisiana which contained a number of material deficiencies, **(b)** since at least 2011 Respondent has been designing buildings and/or building systems in Louisiana, **(c)** on March 29, 2013 Respondent submitted to the Board his 2013 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 April 1, 2011 to March 31, 2013, **(d)** on October 17, 2013, December 4, 2013 and November 1, 2014 Respondent received notices from the Board by certified mail, return receipt requested, to submit within fifteen (15) days the appropriate documentation to validate completion of all CPD requirements for active status for the biennial licensure renewal period of April 1, 2011 to March 31, 2013, **(e)** on April 15, 2015, Respondent finally replied to the CPD audit for the biennial licensure renewal period of April 1, 2011 to March 31, 2013; however, he **(i)** failed to produce the appropriate documentation to prove that, for such period, he had earned the required thirty (30) PDHs in engineering-related activities, the required one (1) PDH in professional ethics and the required minimum of eight (8)

PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines and (ii) 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, **(f)** on October 17, 2013, December 4, 2013 and November 1, 2014 Respondent received notices from the Board by certified mail, return receipt requested, to provide certain information relating to possible violations of the Board's laws and/or rules involving the above referenced project; however, the Board never received a response from Respondent to these notices and **(g)** on May 16, 2015 Respondent received notice from the Board by certified mail, return receipt requested, to submit within fifteen (15) days his project file for the above referenced project; however, the Board never received a response from Respondent to this notice.

By letter dated September 30, 2015, 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 in Louisiana, **(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§3105(A), 3115, 3117 and 3119, relative to the Board's CPD requirements, and **(e)** La. R.S. 37:698(A)(10), relative to providing, within thirty (30) calendar days of receipt of notice by certified mail, information or documents requested by the Board relating to any alleged violation of the Board's laws or rules.

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 three thousand (\$3,000.00) dollars, **(b)** pay administrative costs of one

thousand five hundred ninety-three and 86/100 (\$1593.86) 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, **(e)** earn the missing eight (8) PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines 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 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, and 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 **(a)** that he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, **(b)** that 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)** 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 three thousand (\$3,000.00) 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 one thousand five hundred ninety-three and 86/100 (\$1593.86) 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. Respondent shall earn the missing eight (8) PDHs in Life Safety Code, building codes and/or the Americans with Disabilities Act Accessibility Guidelines and submit the appropriate documentation to validate completion of said PDHs 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: 11/16/15

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

DATE: 11/16/15
DB

David F. Boudreaux
DAVID F. BOUDREAUX, P.E., Respondent

Witnesses to the signature of
David F. Boudreaux, P.E.

Suzanne Boudreaux
Print Name: 11-4-15 Suzanne Boudreaux

Nathan Guidry
Print Name: Nathan Guidry