

IN THE MATTER OF:) CASE NO. 2014-29
)
ANTHONY A. RUBALCAVA, P.E.)
)
RESPONDENT)

By LAPELS Enforcement

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the “Board”], by and through its Executive Director, pursuant to authorization by the Board, and Anthony A. Rubalcava, 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-37291. At all times material hereto, Tomarco Contractor Specialties, Inc. [hereinafter “Tomarco”] was licensed in the State of Louisiana as a professional engineering firm, number EF-5128; however, its license was in an expired status from April 1, 2013 to September 22, 2013. Respondent claims that one of Tomarco’s administrative employees negligently, and contrary to the express instruction of Respondent, failed to mail to the Board the materials necessary to renew Tomarco’s license. At all times material hereto, Respondent was an employee and the supervising professional of Tomarco.

An investigation was opened based upon the Board's receipt of an Application to Reinstate Expired Firm License, in which Tomarco admitted that it had practiced or offered to practice engineering in Louisiana during which time its license was expired. The investigation disclosed that between April 1, 2013 and September 22, 2013 Tomarco (not realizing that its license was expired) admittedly offered to provide engineering services in Louisiana and provided engineering services on approximately twenty-six (26) tasks on two buildings in Louisiana. The investigation also disclosed that in connection with said tasks Tomarco provided engineering services in Louisiana under the name of "International Seismic Application Technology", which was the name of one of Tomarco's divisions. Respondent contends that Tomarco's providing of engineering services in Louisiana under the name of "International

Seismic Application Technology” was not knowingly done with an intent to avoid any applicable law or rule or to deceive or mislead anyone.

La. R.S. 37:698(A)(9) and (16) prohibit licensees from practicing and/or offering to practice engineering in Louisiana with an expired license. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2307, requires firms providing or offering to provide engineering services in Louisiana to identify themselves by the exact firm name contained on their certificate of licensure issued by the Board. La. R.S. 37:698(A)(12) prohibits licensees from aiding or assisting another person in violating the laws and/or 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. 37:698(A)(6), (9), (12) and (16), La. R.S. 37:698(H) and LAC Title 46:LXI§2307 were in effect at all times material hereto.

It is undisputed that **(a)** Tomarco’s license to practice and/or offer to practice engineering in Louisiana was in an expired status from April 1, 2013 to September 22, 2013, **(b)** during this period Tomarco practiced and offered to practice engineering in Louisiana, **(c)** in connection with at least one project in 2013 Tomarco provided engineering services in Louisiana under a firm name which was different than the firm name contained on its certificate of licensure issued by the Board and **(d)** Respondent aided or assisted Tomarco in violating the laws and/or rules of the Board by failing to verify that “International Seismic Application Technology” was properly identified as a division of Tomarco where required by Louisiana laws and/or the rules of the Board and by failing to confirm that Tomarco’s license renewal was properly completed prior to practicing or offering practice engineering in Louisiana between April 1, 2013 and September 22, 2013.

By letter dated January 27, 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 La. R.S. 37:698(A)(12), relative to the aiding or assisting of another person in violating the laws and/or rules of the Board.

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 seven hundred fifty (\$750.00) dollars, **(b)** pay administrative costs of seven hundred twenty-one and 25/100 (\$721.25) 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 does not dispute that the conduct as set forth above, if proven to be true, would constitute violations of the above referenced laws and/or rules as stated herein. Respondent acknowledges that he is now well aware 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 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 on 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 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 seven hundred fifty (\$750.00) 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 twenty-one and 25/100 (\$721.25) 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**

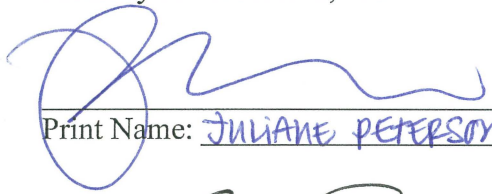
DATE: 7/27/15

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

DATE: 7/23/2015

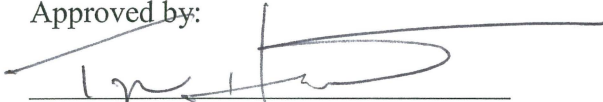
Anthony Rubalcava
ANTHONY A. RUBALCAVA, P.E., Respondent

Witnesses to the signature of
Anthony A. Rubalcava, P.E.


Print Name: JULIANNE PETERSON


Print Name: Allen LeRoche

Approved by:



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