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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.: 201⁵/~~4~~-16

QUALITY ENGINEERING
& SURVEYING, LLC

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 Quality Engineering & Surveying, LLC [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-4011, and as a professional land surveying firm, number VF-645. At all times material hereto, Deric J. Murphy, P.E. [hereinafter "Murphy"] was licensed in the State of Louisiana as a professional engineer, number PE-29602. At all times material hereto, Murphy was also certified in the State of Louisiana as a land surveyor intern, number LSI-427. At all times material hereto, Murphy was an employee, owner and supervising professional of Respondent. At all times material hereto, Ronnie R. Rushing [hereinafter "Rushing"] 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.

An investigation was opened based upon the Board's receipt of information and documents which suggested that Murphy 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 Murphy (on behalf of and in the name of Respondent) sealed, signed and issued a set of engineering design plans for a church for Open Faith Ministries in Baton Rouge, Louisiana. The investigation also disclosed that the plans, which were submitted to the Louisiana State Fire Marshal [hereinafter "LSFM"] for review, included the following material deficiencies:

a) failure to provide supervised automatic sprinkler protection in accordance with the National Fire Protection Association Life Safety Code [hereinafter “NFPA”] and International Building Code [hereinafter “IBC”];

b) failure to use NFPA and IBC compliant latches or locks on doors as a required means of egress serving 50 or more;

c) failure to use NFPA compliant door leaves that swing in the direction of egress travel;

d) failure to provide a main entrance/exit in accordance with the NFPA;

e) failure to design egress doorways with at least 32” in clear width and at least 6’-8” in nominal height in accordance with the NFPA and IBC;

f) failure to design stairs and ramps with NFPA and IBC compliant handrails;

g) failure to design NFPA compliant steps in a change in elevation;

h) failure to provide emergency lighting in accordance with the NFPA and IBC;

i) failure to provide exit signs in accordance with the NFPA and IBC; and

j) failure to provide portable fire extinguishers in accordance with the NFPA.

Additionally, the investigation disclosed that **(a)** the plans were prepared by an unlicensed person (contractor Rushing) who was not employed by Respondent or Murphy, **(b)** the plans were submitted to the LSFM by Rushing, who was the only person to communicate with the LSFM about the plans, **(c)** Murphy did not exercise responsible charge over the preparation of the plans by Rushing and **(d)** Murphy did not communicate with the LSFM’s plan reviewer regarding the deficiencies in the plans.

La. R.S. 37:698(A)(2) prohibits licensees from committing any gross negligence, gross incompetence 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§2505(A) and (B), require licensees to perform services only in the area of their competence and when qualified by education or experience in the specific technical fields of engineering involved. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2505(C), prohibit licensees from sealing or signing engineering documents dealing with subject matters in which they lack competence. 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(A)(18) prohibits licensees from practicing or offering to practice engineering when not qualified. La. R.S. 37:681 and 37:700(A)(1) prohibit the practicing of and/or offering to practice engineering in Louisiana without proper licensure. La. R.S. 37:698(C) permits the Board to take disciplinary action against a firm if one or more of its officers, directors, managers, employees, agents or representatives is found by the Board to be guilty of any of the acts or offenses listed in La. R.S. 37:698(A). La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(2), La. R.S. 37:698(A)(6), LAC Title 46:LXI§2503(C) and (D), 2505(A), (B) and (C), and 2701(A)(3), La. R.S. 37:698(A)(12), and La. R.S. 37:698(A)(18), 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. 37:698(A)(2), (6), (12) and (18), La. R.S. 37:698(C), La. R.S. 37:698(H), La. R.S. 37:700(A)(1) and LAC Title 46:LXI§2503(C) and (D), 2505(A), (B) and (C), and 2701(A)(3) were in effect at all times material hereto.

It is undisputed that **(a)** in 2013 Murphy (on behalf of and in the name of Respondent) sealed, signed and issued a set of engineering design plans for a church in Louisiana which contained a number of material deficiencies, **(b)** the plans were prepared by an unlicensed person (Rushing) who was not employed by Respondent or Murphy, **(c)** the plans were submitted to the LSFM by the unlicensed person, who was the only person to communicate with the LSFM about the plans, **(d)** Murphy did not exercise responsible charge over the preparation of the plans by the unlicensed person, **(e)** Murphy did not communicate with the LSFM's plan reviewer regarding the deficiencies in the plans, **(f)** Rushing has never been licensed to practice and/or offer to practice engineering in Louisiana, **(g)** in 2013 Rushing practiced engineering in Louisiana without proper licensure, **(h)** Respondent aided or assisted Rushing in violating the laws and/or

rules of the Board and **(i)** at all times material hereto Murphy was an employee, owner and supervising professional of Respondent.

By letter dated October 28, 2015, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that it may have violated **(a)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(2), relative to gross negligence, gross incompetence and gross misconduct in the practice of engineering, **(b)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(6) and 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, **(c)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(6) and 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, **(d)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(6) and LAC Title 46:LXI§2505(A) and (B), relative to performing services only in the area of the licensee's competence and when qualified by education or experience in the specific technical fields of engineering involved, **(e)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(6) and LAC Title 46:LXI§2505(C), relative to sealing or signing engineering documents dealing with subject matters in which the licensee lacks competence, **(f)** 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, and **(g)** La. R.S. 37:698(C), *to wit* La. R.S. 37:698(A)(18), relative to practicing or offering to practice engineering when not qualified.

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 two thousand five hundred (\$2,500.00) dollars, **(b)** pay administrative costs of one thousand two hundred forty and 71/100 (\$1,240.71) dollars, **(c)** have each of its supervising professionals successfully complete the Board's online Louisiana Laws and Rules Quiz, **(e)** have each of its supervising professionals successfully complete the Board's online

Louisiana Professionalism and Ethics Quiz, **(f)** immediately cease and desist committing violations of the above referenced laws and/or rules and **(g)** 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 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 one thousand two hundred forty and 71/100 (\$1,240.71) 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 have each of its supervising professionals 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 have each of its supervising professionals 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
5. Respondent shall immediately cease and desist committing violations of the above referenced laws and/or rules; 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: Jan. 19, 2016


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

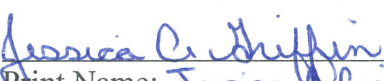
QUALITY ENGINEERING & SURVEYING, LLC,
Respondent

DATE: 11/12/15

BY: 
DERIC J. MURPHY, P.E., Member

Witnesses to the signature of
Quality Engineering & Surveying, LLC


Print Name: William H. Purser


Print Name: Jessica C. Griffin