

**STATE OF ALABAMA BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

IN THE MATTER OF:

Richard C. Borden
Borden Engineering & Surveying Co Inc
8275 Hwy 59 South #1
Gulf Shores, AL 36535

Respondent



**Case No. 2013-37-B
Case No. 2013-42-B
Case No. 2014-12-B
Case No. 2015-11-B**

CONSENT ORDER

Richard C. Borden, an Alabama licensed professional engineer and professional land surveyor (hereinafter referred to as “Respondent”) hereby stipulates and agrees, subject to approval of the Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the Board) as follows:

STIPULATED FACTS

Respondent stipulates he received professional engineer license (#13402) from the Board on June 5, 1981 and professional land surveyor license (#13402) on May 30, 1983, and has held those licenses continuously from those dates to the present.

Respondent stipulates the Board received a complaint that he placed his signature and professional engineer seal on design drawings dated 5/31/13 bearing the name “Powell Residence” 113 Major Run Road, Fairhope, AL 36532 that were submitted to, and rejected by, the City of Fairhope, Alabama. A professional engineer serving as a Board Technical Advisor reviewed the design drawings and provided a report that stated the overall quality of the design set is poor, and it appears that a specific set of floor plans and elevations were combined with a set of

standards details to produce the package.

Respondent stipulates he placed his signature and professional engineer seal on design drawings dated 5/31/13 bearing the name "Powell Residence" 113 Major Run Road, Fairhope, AL 36532 that were submitted to, and rejected by, the City of Fairhope, Alabama. Respondent then required additional money from client and attempted to require client to withdraw a complaint submitted to the Board before he would re-submit corrected design drawings and a letter clarifying code compliance issues to the City of Fairhope, Alabama.

Respondent stipulates he placed his signature and professional engineer seal on design drawings dated 7/29/13 that bear the name "Grasso Residence", Lot-22 Phase Two, The Peninsula, Gulf Shores, Alabama. The drawings were reviewed by a professional engineer serving as a Board Technical Advisor that provided a report stating that details included on the design drawings contain duplications of drawings prepared by another engineer, and the calculations submitted as evidence of the structural design are grossly inadequate to justify the structural design of the residence.

Respondent stipulates he submitted design drawings to the City of Gulf Shores, Alabama bearing the name "Murano Model" that were dated 11/24/2013 and contained his signature and professional engineer seal; however portions of the submitted drawings were prepared by another professional engineer for a different project. The submitted design drawings were reviewed by a professional engineer serving as a Board Technical Advisor that provided a report stating the drawings contain duplications and significant portions were copied from the other engineer's design. The report of the Board Technical Advisor further stated the design parameters indicated on the design drawings exceed the requirements of the building code, and as such the engineering design is required to justify the structural design depicted on the drawings.

Respondent stipulates the Board received a complaint that Respondent placed his signature on an elevation certificate dated 12/10/13 for Matt Lumpkin that was submitted to the City of Gulf Shores, but rejected, because it was inaccurate and would have allowed a homeowner to enclose an area below the Base Flood Elevation. A Board Technical Advisor reviewed the document and determined Respondent made an error in measurement, or used the wrong datum when preparing the certificate, and should have stated the reason for submitting the revised elevation certificate.

Respondent stipulates the Board received a complaint that Respondent's firm performed land surveying services of property belonging to Steven Bobe located at 11570 County Road 87, Elberta, Alabama without his authorization, and left a written note to Mr. Bobe on the property stating a lien would be placed on the property if he did not pay for the surveying services.

STIPULATED CONCLUSIONS OF LAW

Respondent, in his capacity as a licensed professional engineer and a licensed professional land surveyor in the State of Alabama stipulates that in such capacity he is subject to the provisions of Title 34, Chapter 11, Code of Alabama, and the Rules and Regulations of the Administrative Code of this Board.

Respondent stipulates his conduct as set forth in the foregoing "Stipulated Facts" constitutes violations of Title 34, Chapter 11, Code of Alabama, § 34-11-11(a)(2) and violations of the Rules of Professional Conduct of the Administrative Code § 330-X-14-.06(a)(1), and § 330-X-14-.05(g).

Respondent stipulates his conduct set forth in the "Stipulated Facts" constitutes a violation of those rules and statutes set forth above, and he is subjecting himself to disciplinary action under Title 34, Chapter 11, Code of Alabama, § 34-11-11.

STIPULATED DISPOSITION

Respondent understands this Consent Order and subsequent Final Order will become a matter of public record. Respondent further understands this information will be placed on the Board's website, in its newsletter, and posted to the National Council of Examiners for Engineers and Surveyors (NCEES) Enforcement Exchange.

Respondent agrees he will not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama, or the Rules and Regulations of the Administrative Code of the Board and the Rules of Professional Conduct promulgated together.

Respondent understands his Alabama professional engineer license and his professional land surveyor license are suspended for four years, **(with that suspension stayed)** effective immediately upon issue of a Final Order by the Board. Respondent understands that during this stayed suspension period he may continue to practice engineering and land surveying, and compliance with the terms of the consent order will cause the stayed suspension period to automatically cease at the end of the specified time period.

Respondent shall pay to the Board a fine of ten thousand dollars (\$10,000), and investigation costs of two thousand, two hundred and twenty-five dollars (\$2,225). Respondent understands the total monetary amount of the fine and Board costs is payable in eight payments, and a payment of one thousand five hundred and twenty-nine dollars (\$1,529) must be submitted with this signed consent order. Respondent agrees to pay the remainder of the fine and cost in seven payments as follows: one thousand five hundred and twenty-eight dollars (\$1,528) due on or before July 1, 2016, one thousand five hundred and twenty-eight dollars (\$1,528) due on or before October 1, 2016, one thousand five hundred and twenty-eight dollars (\$1,528) due on or before January 1, 2017, one thousand five hundred and twenty-eight dollars (\$1,528) due on or before April 1, 2017, one thousand five hundred and twenty-eight dollars (\$1,528) due on or before July 1, 2017, one

thousand five hundred and twenty-eight dollars (\$1,528) due on or before October 1, 2017 one thousand five hundred and twenty-eight dollars (\$1,528) due on or before January 1, 2018.

Respondent agrees to provide a monthly list of the engineering and land surveying projects he performs to the Board for a period of two years beginning May 15, 2016. Respondent understands the list will be due no later than the fifteenth of each month until the two year period ends on May 15, 2018. Respondent understands the Board may select any of the projects on the list for review and he will be required to submit all documentation related to those projects to the Board. Respondent understands he will be provided information related to the reviews conducted of the selected projects.

Respondent agrees to establish office procedures that insure clients and potential clients are provided a document that outlines the scope of services of the work he will perform and the work that will be performed under his direct supervision. The document must also include language that requires client authorization for changes to the agreed upon scope of services. A copy of these documents must also be available for inspection by Board staff.

Respondent agrees to allow Board staff to inspect his office records during normal business hours. Respondent understands Board staff will schedule these inspections with him, and attempt to conduct them in such a manner that does not disrupt the normal operation of his business.

Respondent agrees to complete the three professional development hour course (Incident at Morales) sponsored by the Murdough Center for Engineering Professionalism at Texas Tech University within six months of the date of the Final Order. Respondent understands this course cannot be used to meet the pdh requirements for license renewal.

Respondent understands this Consent Order is subject to the approval of the Board and has no force and effect until a Final Order based upon it is rendered by the Board.

Respondent agrees any violation of the terms of this Consent Order could result in the Board removing the stay from the suspension, and filing additional charges in accordance with Title 34, Chapter 11, Code of Alabama, § 34-11-11.

Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board Members, Board Staff and Board Counsel. Respondent understands that this discussion will take place at a regularly scheduled meeting of the Board. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision in said formal hearing but expressly waives these rights with execution of this Consent Order and Final Order of the Board.

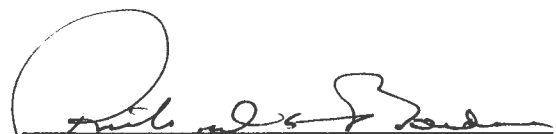
Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order of the Board incorporating said Consent Order.

Respondent, for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Respondent and/or the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.


Respondent, for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. Should the Consent Order not be accepted by the Board, it is

agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

SIGNED this the 05 day of MARCH, 2016.


Richard C. Borden
Respondent

APPROVED:


Benjamin H. Albritton
Assistant Attorney General

STATE OF ALABAMA BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS



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FINAL ORDER

The Alabama Board of Licensure for Professional Engineers and Land Surveyors having considered the consent order signed by Richard C. Borden, Professional Engineer and Professional Land Surveyor, license number 13402, in which he stipulated he violated the Code of Alabama 1975, §34-11-11(a)2, and the Rules and Regulations of the Board's Administrative Code § 330-X-14-.06(a)(1), and § 330-X-14-.05(g) hereby adopts the Consent Order and issues this Final Order.

The Consent Order and Final Order take immediate effect upon the signing of this Final Order and the Respondent is **ORDERED** to abide by the Consent Order and Final Order as approved by the Alabama Board of Licensure for Professional Engineers and Land Surveyors.

ENTERED this the 31st day of March 2016

RECUSED

Marc S. Barter

Elisabeth M. Hyde

Elisabeth M. Hyde

Richard G. Grace

Richard G. Grace

RECUSED

Randall D. Whorton

A. Frazier Christy

A. Frazier Christy

DID NOT ATTEND

Charles P. Willis

Nathan G. Johnson

Nathan G. Johnson