

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

IN RE THE MATTER OF:

LARRY EDWARD KINCER

CASE NO. 2013-27-B

CONSENT ORDER

Larry Edward Kincer, an Alabama licensed professional engineer (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 an Alabama professional engineer license (number 22040) from the Board on November 14, 1997 and has held that license continuously from that date until the present.

Respondent stipulates on February 27, 2013 he was informed via email that his 2013 professional engineer license renewal application had been selected at random for verification of reported continuing professional competency credits. Respondent also stipulates he was requested to provide documentation to the Board verifying his reported professional competency credits no later than April 1, 2013.

Respondent stipulates that in an email dated March 22, 2013 he provided a certificate verifying 11.0 professional development hours (PDH) earned for the TVPPA E & O Conference on August 4-5, 2011 and a certificate verifying 11.1 PDH earned for the TVPPA E & O Conference dated August 9-10, 2012.

Respondent stipulates that on May 8, 2013 he was notified by Board staff that the documentation provided by him failed to verify the PDH he reported on his 2012 and 2013

license renewal applications, and he was asked to provide additional documents to verify the remaining PDH. On May 22, 2013, Respondent informed Board staff via email that he was unable to provide the documentation for the remaining professional development hours he reported on his 2013 professional engineer license renewal, but he did have a certificate for 6 PDH for attendance at the PEAK Fall Engineering and Operations Meeting on October 14, 2011.

Respondent stipulates he was notified on June 26, 2013 via regular and certified mail that the Board had initiated a complaint regarding his failure to provide documents that support the professional competency credits he reported on his 2013 professional engineer license renewal application.

Respondent stipulates that on July 1, 2013 he provided documentation verifying his completion of the required 15 PDH for his 2013 professional engineer license renewal application.

Respondent stipulates he failed to provide the continuing professional competency documents when they were requested by the Board on February 27, 2013 and April 29, 2013 due to poor record keeping.

STIPULATED CONCLUSIONS OF LAW

Respondent admits he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11 and the jurisdiction of the Board.

Respondent stipulates his conduct as set forth in the foregoing "Stipulated Facts" constitutes violations of Title 34 Chapter 11 Code of Alabama 1975 Section 34-11-11(a) 2 and the Rules and Regulations of the Board's *Administrative Code* § 330-X-13-.02(12), and § 330-X-14-.06(a)(1).

Respondent stipulates his conduct as set forth in the "Stipulated Facts" is a violation of those statutes set forth above, and he is subject to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

STIPULATED DISPOSITION

Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975, or the Rules and Regulations of the Administrative Code and the Rules of Professional Conduct promulgated together.

Respondent understands this Consent Order and subsequent Final Order will become a matter of public record.

Respondent shall submit to the Board via certified check a fine in the amount of seven hundred forty-five dollars (\$745.00) with this signed Consent Order.

Respondent understands his Alabama professional engineer license shall be subject to future audits of the reported continuing professional competency credits at the discretion of the Board.

Respondent understands that failure to comply with any term of this consent order shall cause his professional engineer license to be **revoked** pending ratification by the Board. Respondent further understands this matter would be presented to the Board at a regularly scheduled meeting at which he could attend and present evidence on his behalf.

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, may result in the Board filing additional charges in accordance with the Title 34, Chapter 11, Code of Alabama 1975, § 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 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.

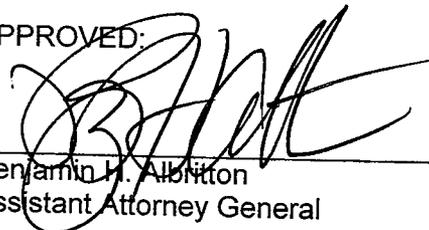
Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order 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 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 23rd day of AUGUST, 2013


Larry Edward Kincer

APPROVED:


Benjamin H. Albritton
Assistant Attorney General

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FINAL ORDER

On October 9, 2013, the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled meeting. The Board Members in attendance at the meeting were: Mr. Phillip E. Santora, Mr. Earl Foust, Mr. Marc S. Barter, Mr. Charles P. Willis, Mr. Frazier Christy, Mr. W. Gerald Wilbanks and Dr. Daniel S. Turner.

This Final Order is based upon a Consent Order signed by Larry Edward Kincer (hereafter referred to as "Respondent") and dated August 23, 2013. In the Consent Order, Respondent 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-13-.02(12) and § 330-X-14-.06(a)(1).

Upon Consideration of the above it is **ORDERED** that the Consent Order dated August 23, 2013 is adopted by the Board and hereby made a part of this Final Order. It is further **ORDERED** that Respondent abide by the Final Order in this manner.

ENTERED this the 9th day of October, 2013



Phillip E. Santora



Marc S. Barter

RECUSED

Frazier Christy



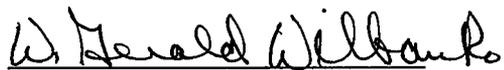
Daniel S. Turner



Earl R. Foust

DID NOT ATTEND

Charles P. Willis



W. Gerald Wilbanks