

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

IN THE MATTER OF:

Joseph Mark Burnett
4618 Burning Tree Lane
Pelham AL 35124

Respondent



Case No. 2017-33-B

CONSENT ORDER

Joseph Mark Burnett, a 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 on July 2, 1999, the Board issued him certificate of licensure number 23090 authorizing him to practice as a professional engineer in the State of Alabama.

Respondent stipulates on September 26, 2017, the Board received a complaint that alleged he placed his professional engineer seal and signature on multiple discipline design plans for the Zapopan Restaurant, Calera, Alabama that appear to be outside his area of expertise.

Respondent stipulates a set of design documents bearing his signature and Alabama professional engineer seal where submitted to the City of Calera Alabama Building Department for the civil, mechanical, electrical and structural design of the Zapopan Restaurant project.

Respondent stipulates a Board Technical Advisor reviewed the civil design documents bearing his signature and Alabama professional engineer seal that were submitted to the City of

Calera Building Department for the Zapopan Restaurant project and provided a report that in summary stated the design documents were reviewed to general industry standards, and noted several items that do not meet the acceptable standards of practice for engineering in the State of Alabama.

Respondent stipulates a Board Technical Advisor reviewed the mechanical design documents bearing his signature and Alabama professional engineer seal that were submitted to the City of Calera Building Department for the Zapopan Restaurant project and provided a report that in summary stated the engineer of record was not familiar with HVAC equipment, HVAC Code requirements and the design of an effective HVAC system.

Respondent stipulates a Board Technical Advisor reviewed the electrical design documents bearing his signature and Alabama professional engineer seal that were submitted to the City of Calera Building Department for the Zapopan Restaurant project and provided a report that in summary stated the engineer practiced engineering outside of his area of expertise, and the documents were outside of his control during the design process.

Respondent stipulates a Board Technical Advisor reviewed the structural design documents bearing his signature and Alabama professional engineer seal that were submitted to the City of Calera Building Department for the Zapopan Restaurant project and provided a report that in summary stated very little was done by the engineer to safeguard the life and safety of human beings.

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, § 34-11-11(a)(2), and the Rules and Regulations of the Board's Administrative Code § 330-X-14-.05(g) 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 it is subject to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

STIPULATED DISPOSITION

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 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 to submit payment of a fine of two thousand five hundred dollars (\$2,500) to the Board via a check or money order made payable to PE/PLS Fund with this signed Consent Order.

Respondent agrees his license to practice engineering is suspended for two years with that suspension stayed. Respondent understands that during the time his license is under this stayed suspension period he may continue to practice engineering in the State of Alabama, 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 agrees to submit a list of the engineering projects he performs on a quarterly basis for a twelve-month period beginning the date the Final Order is signed by the Board. Respondent further agrees the project list will be due no later than 15 days after the end of each quarter. Respondent understands that a project(s) will be selected from the list each quarter to be reviewed for compliance with the standards of practice for engineering in the State of Alabama. Respondent understands that if all reviewed projects receive satisfactory reviews, after the twelve-month period he will no longer be required to submit the list of projects.

Respondent understands that if a reviewed project receives an unsatisfactory review, he will be required to continue providing the list of projects for review for the entire two year stayed suspension period.

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 to comply with the terms of this Consent Order and understands failure to comply with the terms of the Consent Order may result in additional charges or discipline.

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. It is agreed that presentation to and consideration of the

Consent Order by the Board requires certain factual information related to this matter be disclosed to the Board members. Should the Consent Order not be accepted by the Board, it is therefore expressly agreed that the reviewing, and consideration of this Consent Order, and the information provided to the Board for their review, shall not unfairly prejudice the Board and shall in no way act to disqualify any Board member from any further participation in this matter through its resolution, including, but not limited to, any contested hearing on this matter should one be necessary. 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 23 day of March, 2018


Joseph Mark Burnett, PE

APPROVED:


Benjamin W. Abritton
Assistant Attorney General

