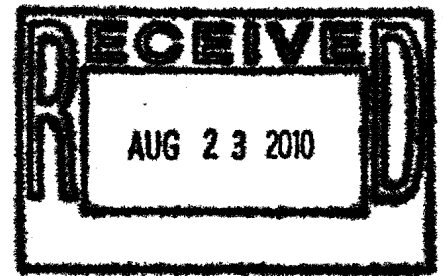


STATE OF ALABAMA  
BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND  
LAND SURVEYORS



IN RE THE MATTER OF:

DAVID A. FUQUA  
TERRA FORM, INC

Case No. 10-19-B

CONSENT ORDER

Mr. David A. Fuqua (hereinafter referred to as "Respondent") and the company, Terra Form, Inc., (hereinafter referred to as "Firm") hereby stipulates and agrees, subject to approval of the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the "Board") as follows:

STIPULATED FACTS

Respondent stipulates he was issued a license (# 16915) to practice engineering in the State of Alabama on November 18, 1988 and has held that license continuously since that date. Respondent further stipulates Firm obtained a Certificate of Authorization for engineering (CA-3841-E) from the Board on January 4, 2005 and held that certificate continuously from that date until January 31, 2010 when it was placed in lapsed status.

Respondent stipulates on March 2, 2010, the Board received a complaint from Mr. Mark D. Ryan, Attorney for Synergy Earth Systems, LLC of Bay Minette, Alabama, alleging Respondent and Firm may have practiced or offered to practice engineering in the State of Alabama prior to obtaining a Certificate of Authorization for engineering from the Board as well as continuing to provide engineering services while Firm's certificate of authorization was in lapsed status. The complaint further indicated Respondent may have formed Firm while serving

as a Corporate Officer of Synergy Earth Systems, Inc., for the purpose of directly competing with Synergy Earth Systems.

Respondent stipulates Firm offered to provide engineering services in the State of Alabama from September 2004 through January 2005 without obtaining a Certificate of Authorization for engineering from the Board by including language in correspondence stating: "Terra Form, Inc. proposes to provide professional engineering services to design the wall system and prepare the shop drawings stamped by an engineer registered in the State of Alabama."

#### STIPULATED CONCLUSIONS OF LAW

Respondent, in his capacity as a licensed Alabama professional engineer stipulates in such capacity he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11, and the Rules of Regulations of the Administrative Code of this Board.

Respondent stipulates his conduct and the conduct of Firm as set forth in the foregoing "Stipulated Facts" constitutes violations of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a) 2, § 34-11-9(a) 1 and the *Administrative Code* of the Board § 330-X-14-.06 (a) 1 and § 330-X-15-.01 (1).

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

#### STIPULATED DISPOSITION

1. Respondent agrees Firm shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975.
2. Respondent understands this Consent Order and subsequent Final Order will become a matter of public record.
3. Respondent agrees he shall pay a fine of \$1,000.00 (one thousand dollars) to the Board within thirty days of date of Final Order.

4. Respondent agrees failure to submit payment of the specified penalty within six months of the date of the Final Order shall cause his license to practice engineering in the State of Alabama to be revoked. Respondent understands this matter would be presented to the Board for ratification at its next regularly scheduled meeting. Respondent further understands he has the right to appear at that meeting and present any pertinent information to the Board for its consideration.

5. Respondent understands his Alabama professional engineer license shall be subject to one (1) year **Probation** commencing immediately upon the date of the Final Order.

6. 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.

7. 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.

8. 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 the Board's next regularly scheduled meeting in Montgomery Alabama. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

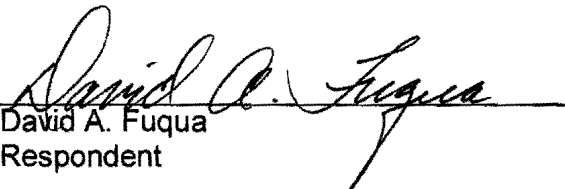
9. Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision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

10. 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.

11. 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 20<sup>th</sup> day of August, 2010

  
David A. Fuqua  
Respondent

APPROVED:

  
Benjamin F. Albritton  
Assistant Attorney General

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

IN RE THE MATTER OF:

DAVID A. FUQUA  
TERRA FORM, INC.

Case No. 10-19-B

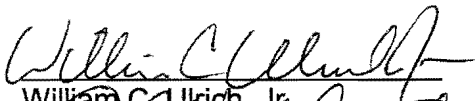
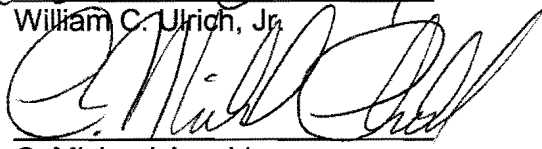
FINAL ORDER


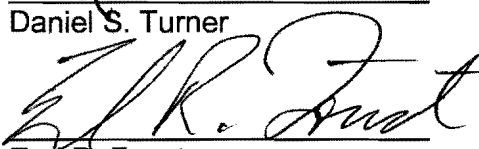
On September 16, 2010, the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled Board meeting. The Board Members in attendance at the meeting were: Mr. William C. Ulrich, Jr., Mr. Don T. Arkle, Mr. C. Michael Arnold, Mr. W. Gerald Wilbanks, Dr. Daniel S. Turner, Mr. Phillip E. Santora and Mr. Earl R. Foust. Mr. Benjamin Albritton, Assistant Attorney General, appeared as counsel for the Board.

This Final Order is based upon a Consent Order signed by Mr. David A. Fuqua, (hereafter referred to as Respondent) and dated August 20, 2010. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a)(2) and § 34-11-9(a)(1), and the Board's *Administrative Code* § 330-X-14.06(a)(1) and § 330-X-15-.01(1).

Upon Consideration of the above it is **ORDERED** that the Consent Order dated August 20, 2010 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 16th day of September, 2010

  
William C. Ulrich, Jr.  
  
C. Michael Arnold

  
Daniel S. Turner  
  
Earl R. Foust

**RECUSED**

Don T. Arkle

  
W. Gerald Wilbanks

  
Phillip E. Santora