

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

IN RE THE MATTER OF:

JERRY W. HUTCHERSON

Case No. 2011-42-B

CONSENT ORDER

Mr. Jerry W. Hutcherson, a licensed Alabama professional engineer (hereinafter referred to as "Respondent") 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 on February 6, 1991 the Board issued him a Certificate of Licensure (Licensure Number 18212) authorizing him to practice as a professional engineer in the State of Alabama and he has held that certificate continuously from that date.

Respondent stipulates on July 27, 2011 the Board received a complaint alleging Respondent placed his signature and professional engineer seal upon design plans prepared for Construction & Building Logistics of Daphne, Alabama which may have contained violations of applicable building codes and the standards of practice for engineering in the State of Alabama.

Respondent stipulates a Board investigation determined that on August 12, 2010 Respondent placed his signature and professional engineer seal upon design drawings prepared for Ace Metal Buildings and Construction & Building Logistics of Daphne, Alabama relative to the Lillian Gregor [REDACTED] project which is currently involved in litigation in the Circuit Court of Baldwin County, Alabama (Case No. CV-2011-900408.00).

Respondent stipulates a Board Technical Advisor provided a review of the design drawings bearing his signature and professional engineer seal that he prepared for Ace Metal Buildings and Construction & Building Logistics of Daphne, Alabama relative to the Lillian Gregor [REDACTED] project. Respondent further stipulates the Board Technical Advisor provided a report that stated, "In conclusion, it is my opinion that deficiencies exist in the design of this structure and in the detailing of the structure. It is my opinion that multiple components of this structure have not been designed in compliance with the applicable codes and standards."

Respondent disagrees with the review, findings and conclusions of the Board Technical Advisor.

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

1. 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.

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

3. Respondent understands he shall pay to the Board a fine of one thousand two hundred and fifty dollars (\$1,250.00) within thirty (30) days of date of Final Order.

4. Respondent understands his Alabama professional engineer license shall be subject to a two (2) year ***stayed suspension*** effective immediately upon the issue of a Final Order by the Board. Respondent is permitted to engage in the practice of engineering without limitation during the stayed suspension period. This stayed suspension period is un-supervised 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 further understands any additional finding by the Board at a formal hearing of any additional violation of the Code of Alabama or the Rules of the Administrative Code of the Board during this stayed suspension period will cause his professional engineer license to be suspended for the remainder of the stayed suspension period.

5. Respondent understands he must complete the ten (10) professional development hour engineering ethics course provided by the Murdough Center of Texas Tech University within six (6) months of date of Final Order. Respondent understands this course cannot be used to meet the continuing professional competency requirements for the annual renewal of his professional engineer license.

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 a regularly scheduled

meeting of the Board 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 17 day of APRIL, 2013



Jerry W. Hutcherson

APPROVED:


Benjamin H. Albritton
Assistant Attorney General

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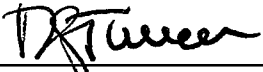
FINAL ORDER

On May 15, 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: Dr. Daniel S. Turner, Mr. Phillip E. Santora, Mr. Earl R. Foust, Mr. Marc S. Barter, Mr. Charles P. Willis, Mr. W. Gerald Wilbanks and Mr. A. Frazier Christy.


This Final Order is based upon a Consent Order signed by Jerry W. Hutcherson (hereafter referred to as Respondent) and dated April 17, 2013. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a)(2) and the Rules of Professional Conduct of the *Administrative Code* § 330-X-14-.05(g) and § 330-X-14-.06(a)(1).

Upon Consideration of the above it is **ORDERED** that the Consent Order dated April 17, 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 15th day of May, 2013



Daniel S. Turner



Earl R. Foust

DID NOT ATTEND

Charles P. Willis



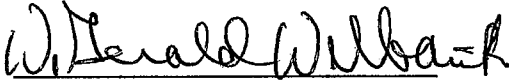
A. Frazier Christy

RECUSED

Phillip E. Santora



Marc S. Barter



W. Gerald Wilbanks