

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

IN THE MATTER OF:

Mr. James Chitwood
969 County Road 465
Fort Payne, AL 35967

Respondent



Case No. 2021-19

CONSENT ORDER

James Chitwood (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 the Board received a complaint that indicated he had possibly violated Title 34 of the Code of Alabama. The complaint indicated that Respondent had possibly attempted to supplant his employer, CDG Engineers and Associates, Inc., (CDG) an engineering firm, from current contracted engineering projects while employed at the firm.

Respondent stipulates on March 25, 2021, he notified CDG of his intent to resign his position and to start a new firm named Canyon Engineering. Prior to his departure, he used CDG resources and forwarded a number of CDG project-related documents to his personal email address in violation of CDG Policy § IV-A-1; § IV-A—3; § VIII-4A; IV-C-3. These emails were related to existing projects or opportunities that CDG had been pursuing with the Attalla Water Works Board. Additionally, while still working for CDG, in order to seek future opportunities for his company, Respondent spoke with, and sent correspondence to Jeff Bailey, the Board Chairman of the Attalla Water Works.

Respondent stipulates that in November 2019, the Centre Water Works and Sewer Board requested that CDG assist in the preparation of preliminary documents to apply for an Economic Development Administration (EDA) grant to provide funding to rehabilitate an existing

sewer lift station. On February 23, 2021, and March 11, 2021, the Centre Water Works and Sewer Board forwarded emails of notification of the EDA funding award to Respondent's CDG email account; however, he failed to notify anyone at CDG of the award announcement. After receiving this information, he forwarded both emails, to his personal email address and later deleted them from his CDG email account in violation of CDG Policy § IV-A-1; § IV-A—3; § VIII-4A; IV-C-3. These emails belonged to CDG and were related to existing projects or opportunities that CDG was pursuing with the Centre Water Works and Sewer Board.

Respondent stipulates that prior to his departure from CDG on March 26, 2021, he used CDG resources and forwarded a number of project-related documents for various jobs, to include the City of Good Hope to his personal email in violation of CDG Policy § IV-A-1; § IV-A—3; § VIII-4A; IV-C-3. These emails belonged to CDG and were related to existing projects or opportunities that CDG was directly involved in.

STIPULATED CONCLUSIONS OF LAW

Respondent stipulates 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 a violation of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)2, and the Administrative Code of the Board § 330-X-14-.06(a)(5).

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

STIPULATED DISPOSITION

Respondent stipulates 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 understands this Consent Order and subsequent Final Order will be a public record, and this information will be placed on the Board's website, in its newsletter, and

on the Enforcement Exchange portion of the website of the National Council of Examiners for Engineering and Surveying (NCEES).

Respondent shall submit to the Board with this signed Consent Order a check made payable to the PE/LS Fund in the amount of four thousand dollars (\$4,000).

Respondent agrees to complete the three (3) professional development hour course (Incident at Morales) sponsored by the Murdough Center for Engineering Professionalism at Texas Tech University within three 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 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 this discussion will occur at a scheduled meeting of the Board.

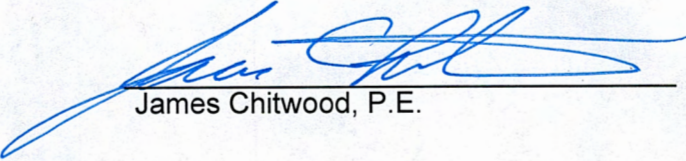
Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact-finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against it, and to obtain judicial review of the Board's decision 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.

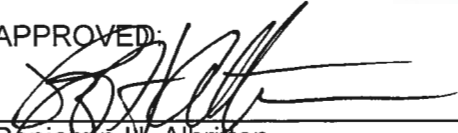
Respondent, for the purpose of avoiding further administrative action with respect to this Cause executes this Consent Order. It is agreed that presentation to and consideration of the

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 and all stipulations hereinabove are thereby rescinded.

SIGNED this the 12th day of AUGUST, 2021.



James Chitwood, P.E.

APPROVED:

Benjamin H. Albritton
Assistant Attorney General

STATE OF ALABAMA BOARD OF LICENSURE
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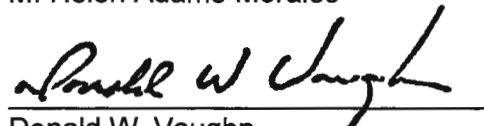
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FINAL ORDER

The Alabama Board of Licensure for Professional Engineers and Land Surveyors having considered the consent order agreed to by James Chitwood, professional engineer, in which he stipulated he had violated Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)2, and the Administrative Code of the Board § 330-X-14-.06(a)(5) approves the Consent Order and issues this Final Order.

The Consent Order and Final Order take immediate effect and James Chitwood is **ORDERED** to abide by the Consent Order and Final Order as agreed upon by the Board. **ENTERED** this the 14th day of September 2021.


M. Helen Adams-Morales


Donald W. Vaughn

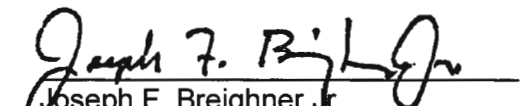
DID NOT ATTEND


Elaine B. Walton


John E. Averrett

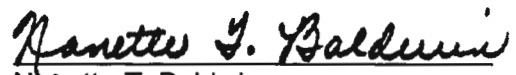
RECUSED

Gregory Robinson


Joseph F. Breighner Jr.


Randall D. Whorton


Nathan G. Johnson


Nanette T. Baldwin