

6-2-00

STATE OF FLORIDA
BOARD OF PROFESSIONAL ENGINEERS
FLORIDA ENGINEERS MANAGEMENT
CORPORATION,

Petitioner,
vs.

CHARLES C. STOKES, P.E.,
Respondent.

DOAH CASE NO.: 99-3766

FEMC Case No. 98-A0130
Final Order No. BPR-2000-04875 Date: 11-30-00

FILED

Department of Business and Professional Regulation

AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nichols

FINAL ORDER

THIS MATTER was heard by the Board of Professional Engineers pursuant to Section 120.57(1), Florida Statutes, on October 18, 2000, in Pensacola, Florida, for consideration of the Recommended Order entered in this case by the Honorable Stephen F. Dean, Administrative Law Judge, dated June 22, 2000.

PRELIMINARY STATEMENT

The Board hereby corrects the Preliminary Statement in the Recommended Order as follows: The reference on page 3 of the Recommended Order to Petitioner filing a packet of supplemental exhibits and motions after the hearing is incorrect, in that it was Respondent who filed such documents. The reference to Petitioner filing a Notice of Voluntary Dismissal to Counts 2, 3, and 4 after the hearing is also incorrect in that no such pleading was filed.

RULING ON EXCEPTIONS

Respondent filed exceptions to the Recommended Order. After reviewing said exceptions, reviewing the complete record accompanying the Recommended Order, hearing argument of Counsel, and being otherwise fully advised in the premises, the Board hereby rules as follows:

1. Respondent's exception to paragraph 7 is irrelevant to this proceeding as no charges

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Clerk

CLERK

DATE

Jessie Baker
11-30-2000

regarding Respondent's business, "Charles Stokes Engineering" were filed against the Respondent.

2. The Respondent challenges witness Dan Alford's veracity regarding his testimony concerning the length of time Mr. Alford has known the Respondent. Witness credibility is within the purview of the Administrative Law Judge and should not be revisited by this Board.

3. The additional information offered by the Respondent in paragraph 8 constitutes inappropriate testimony to facts that are not in evidence and is rejected.

4. Respondent's statement that Shoreline Engineering did not apply for a Certificate of Authorization with the Board of Professional Engineers until three or four months after the final payment to Shoreline Construction and Engineering, Inc. merely demonstrates that prior to that date, Shoreline Construction was offering engineering services in violation of the Board's rules. Respondent signed the contract in evidence as Petitioner's Exhibit 4 as the Director of Shoreline Construction and Engineering Inc. The remainder of Respondent's exception to paragraph 13 constitutes inappropriate testimony to facts not in evidence, and is rejected.

5. Respondent's exceptions to paragraphs 20, 21, 27, 28, 40, 45, 46, and 49 do not state with particularity Respondent's exception to the Recommended Order.

6. Respondent's exception to paragraph 29 is rejected. Respondent signed and sealed the set of engineering plans at issue on July 16, 1998. (P. Exh. 5) Testimony at hearing established that the Respondent reassured Tropical Breeze Resort Association on numerous occasions that the plans were complete. (T. 31, 32).

7. Respondent's exception to paragraph 39 is rejected. In his Recommended Order, the Judge notes that the issue of whether or not the Association was provided with access to a more complete set of plans is immaterial because the Association did not pay the Respondent the full

amount of \$22,400 for the plans.

8. The Board of Professional Engineers is bound by the Administrative Law Judge's findings of fact unless the Board finds, and states with particularity, that the finding is not supported by competent, substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. McDonald v. Department of Banking and Finance, 346 So.2d 569 (Fla. 1st DCA 1977), Florida Department of Corrections v. Bradley, 510 So.2d 1122 (Fla. 1st DCA 1987).

FINDINGS OF FACT

9. The Findings of Fact in the Recommended Order are hereby adopted and incorporated by reference as the Board's Findings of Fact.

10. There is competent substantial evidence to support the Findings of Fact.

CONCLUSIONS OF LAW

11. The Board has jurisdiction over the parties and the subject matter of this proceeding.

12. The Conclusions of Law in the Recommended Order are hereby adopted and incorporated by reference as the Board's Conclusions of Law.

13. The Board rejects the Recommended Penalty of revocation.

WHEREFORE, and for the foregoing reasons, it is hereby ORDERED:

That Respondent shall be SUSPENDED for at least one year from the date of this Order and until such time as he appears before the Board to request reinstatement. Respondent shall pay a FINE of \$6,000 as a condition of and prior to reinstatement. Upon reinstatement, Respondent shall be on PROBATION for two (2) years. As a condition of probation, an engineering consultant approved by the Board shall conduct a review of one project selected by said consultant from lists of projects supplied by Respondent. The first such review shall be in six months from the

start of probation, and subsequent reviews shall be in six month intervals thereafter, for a total of four (4) project reviews. Respondent shall supply a list of pending or recent projects to the Board at least 30 days prior to each six month interval. Respondent shall bear the costs of such reviews. Respondent shall complete a course in engineering professionalism and ethics during the first year of probation, and shall submit proof of completion of said course to the Board office. Petitioner may contact the Florida Engineering Society, 125 S. Gadsden Street, Tallahassee, FL 32301 (850) 224-7121 for information regarding the availability of such courses in Florida. Petitioner may also elect to complete one of the following correspondence courses offered by:

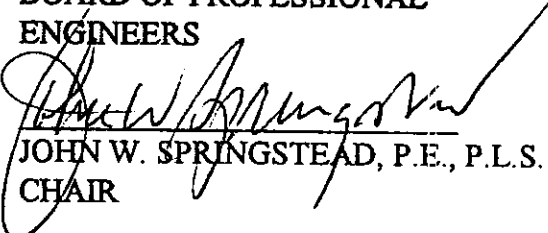
Murdough Center for Engineering
Professionalism
Texas Tech University
P.O. Box 41023
Lubbock, Texas 79409
(806) 742-3525

Engineering Extension Service
EPD Program
217 Ramsay Hall
Auburn University, Alabama 36849-5331
(334) 844-5722

This Order takes effect upon filing with the Clerk of the Florida Engineers Management Corporation. The Parties are notified, pursuant to Section 120.68, Florida Statutes, that they may appeal this Final Order by filing, within thirty days of the filing date of this Order, a Notice of Appeal with the Clerk of the Florida Engineers Management Corporation and a copy of said Notice of Appeal accompanied by filing fees prescribed by law with the District Court of Appeal.

DONE AND ORDERED this 17th day of November, 2000, by the
Florida Board of Professional Engineers.

BOARD OF PROFESSIONAL
ENGINEERS


JOHN W. SPRINGSTEAD, P.E., P.L.S.
CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by United States Mail to Charles Stokes, P.E., 35 Oats Road, Cottonwood, AL 36320, and by hand delivery to Agency Clerk, Florida Engineers Management Corporation, 1208 Hays Street, Tallahassee, Florida 32301, by 5:00 p.m., on this ____ day of _____, 2000.
