

12-28-00

STATE OF FLORIDA  
BOARD OF PROFESSIONAL ENGINEERS  
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Florida Board of  
Professional Engineers

FLORIDA ENGINEERS MANAGEMENT  
CORPORATION,

Petitioner,

vs.

JOSEPH C. CASH, P.E.,

Respondent.

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

REM-CLE  
FE MC Case No: 99-00074  
DOAH CASE NO.: 00-1526

(BW)

Final Order No. BPR-2001-01292 Date: 3-30-01  
FILED

Department of Business and Professional Regulation  
AGENCY CLERK

Sarah Wachman, Agency Clerk

AP

FINAL ORDER

By: Brandon M. Nichols

THIS MATTER was heard by the Board of Professional Engineers pursuant to Section 120.57(1), Florida Statutes, on February 22, 2001, in St. Augustine, Florida, for consideration of the Recommended Order entered in this case by the Honorable Robert E. Meale, Administrative Law Judge, dated December 28, 2000. Petitioner was represented by Douglas Sunshine, Prosecuting Attorney. Respondent was not present.

Upon consideration of the Administrative Law Judge's Recommended Order and the arguments of the parties and after a review of the complete record in this matter, the Board makes the following findings:

**RULING ON EXCEPTIONS**

In a letter dated January 10, 2001, Respondent filed exceptions to the Recommended Order. The Board reviewed the Exceptions filed by the Respondent and rejected the Exceptions for the reasons set forth in the Petitioner's Response to the Respondent's Exceptions. The Administrative Law Judge's Findings of Fact are supported in the record by competent, substantial evidence.

### **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, pursuant to Section 120.57(1), Florida Statutes, and Chapter 471, Florida Statutes.

12. The Administrative Law Judge's Conclusions of Law are hereby approved and adopted in toto and incorporated herein by reference, except for Paragraph 27 of the Recommended Order. The first sentence of Paragraph 27 is approved, adopted in toto and incorporated herein by reference. The remainder of Paragraph 27 is rejected as being a mere attempt at mitigation of the minimum penalty prescribed by Rule 61G15-19.004(2)(m), F.A.C.

13. Respondent is guilty of violating Section 471.033(1)(g), Florida Statutes, for negligence in the practice of engineering.

14. There is clear and convincing evidence to support the Board's findings and conclusions.

### **RECOMMENDED PENALTY**

15. The Board rejects the Recommended Penalty of a reprimand, as it is much less than the minimum penalty for negligence in the practice of engineering. The Board hereby imposes the minimum penalty for this offense.

THEREFORE, IT IS ORDERED AND ADJUDGED:

Respondent is hereby REPRIMANDED. Respondent shall pay a FINE of \$1000 within 30 days of his receipt of this Order. Respondent shall be on PROBATION for two years. As a condition of probation, an engineering consultant approved by the Board shall conduct a review of two projects 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 a subsequent review shall be in eighteen months from the start of probation, 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 review interval. Respondent shall bear the costs of such reviews. Respondent shall complete and submit the Board's Engineering Law and Rules Study Guide no later than 30 days from the effective date of this Order. Respondent shall also take an approved course in professionalism and ethics within one (1) year of the effective date of this Order, 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  
Auburn, 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 29<sup>th</sup> day of March, 2001,  
by the Florida Board of Professional Engineers.

BOARD OF PROFESSIONAL  
ENGINEERS

for Perry Miller  
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: Joseph C. Cash, P.E., 4422 Mundella Circle, Port Charlotte, Florida 33948; Administrative Law Judge Robert E. Meale, The Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; 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 \_\_\_\_\_, 2001.

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