

FILED
Florida Engineers
Management Corporation
4/19/2018 Clerk: Rebecca Valentine

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/19/2018
File #	2018-02843

STATE OF FLORIDA
FLORIDA REAL BOARD OF PROFESSIONAL ENGINEERS

FLORIDA BOARD OF PROFESSIONAL
ENGINEERS,

Petitioner,

FEMC CASE NO.: 2015013030
DOAH CASE NO.: 17-3840
LICENSE NO.: PE 45894

EARL E. HENRY, P.E.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF PROFESSIONAL ENGINEERS (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on April 5, 2018, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, Response to Exceptions to the Recommended Order (copies of which are attached hereto as Exhibits A, B, and C, respectively) and Motion to Tax Costs in the above-styled cause. Petitioner was represented by John J. Rimes, III, Chief Prosecuting Attorney. Respondent was present and was not represented by counsel.

Upon review of the Recommended Order, the written and oral argument of the parties, the written Exceptions and responses thereto, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULING ON EXCEPTIONS

1. Respondent filed exceptions to paragraphs 9, 16, 19, 22 - 25, 28 - 32, 49, and 50. Petitioner filed responses to the Respondent's exceptions.

2. Rule 28-106.217, Florida Administrative Code, provides in material part:

(1) Parties may file exceptions to findings of fact and conclusions of law contained in recommended orders with the agency responsible for rendering final agency action within 15 days of entry of the recommended order except in proceedings conducted pursuant to Section 120.57(3), F.S. Exceptions shall identify the disputed portion of the recommended order by page number or paragraph, shall identify the legal basis for the exception, **and shall include any appropriate and specific citations to the record.** (Emphasis Added)

3. Respondent's Exceptions do not contain any citations to the record, and therefore, do not comply with the requirements of Rule 28-106.217, F.A.C. As Respondent's exceptions do not comply with the mandatory requirements of the Rule, the Board declines to rule on Respondent's Exceptions.

FINDINGS OF FACT

1. There is competent substantial evidence to support the Findings of Fact.
2. The Findings of Fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 471, Florida Statutes.
2. The Conclusions of Law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

DISPOSITION

Upon a complete review of the record in this case, the Board approves and adopts the penalty set forth in the Recommended Order, and in accordance therewith, imposes the following discipline:

Respondent's license shall be placed on probation for a period of two (2) years. Pursuant to Rule 61G15-19.004(1), F.A.C., the terms of probation include the following:

- a. Successful completion of the Engineering Laws and Rules Study Guide;
- b. Completion of a Board-approved course in Professionalism and Ethics;
- c. Appearance before the Board at the end of the probationary period;
- d. Plans review at six (6) and eighteen (18) month intervals.

RULING ON MOTION TO TAX COSTS

1. The Motion to Tax Costs reflects FEMC incurred costs in this matter in the amount of twenty thousand, four hundred ninety-seven dollars and ninety-two cents (\$20,497.92).

2. The Recommended Order in this matter determined Petitioner should be awarded costs, but those costs should be reduced by one thousand, one hundred eighty-seven dollars and fifty cents (\$1,187.50).

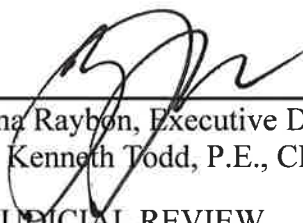
3. Upon review of the Motion and after a review of the complete record in this case, along with the Recommended Order, the Board determined an additional reduction in costs is appropriate and warranted, and hereby GRANTS Petitioner's Motion to Tax Costs in the amount of sixteen thousand dollars (\$16,000.00). Costs are to be paid within one (1) year of the date of this Order.

This Final Order shall take effect upon being filed with the Clerk of the Department of Business and Professional Regulation.

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DONE AND ORDERED this 18 day of April, 2018.

BOARD OF PROFESSIONAL ENGINEERS



Zana Raybon, Executive Director
for Kenneth Todd, P.E., CFM, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE FLORIDA APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to **Earl E. Henry, P.E.**, 6880 52nd Street North, Pinellas Park, Florida 33781; by interoffice mail to John J. Rimes, FEMC, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303 and Board of Professional Engineers, 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303; and by electronic mail to Lawrence D. Harris, Assistant Attorney General, Lawrence.Harris@myfloridalegal.com this 20 day of April, 2018.



Rebecca Valentine