

**LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD  
9643 Brookline Avenue, Suite 123  
Baton Rouge, Louisiana 70809**

**IN THE MATTER OF THOMAS E. PITTMAN, P.E.**

**CASE NO. 2007-203**

**STIPULATED FINAL DECISION AND ORDER**

The Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order were issued and forwarded to Thomas E. Pittman, P.E. and the prosecuting attorney (Celia R. Cangelosi) on December 30, 2008. Mr. Pittman, through his attorney (Daniel L. Avant), filed an exception and brief and requested oral argument. Ms. Cangelosi did not file an exception or brief, but did request oral argument. Both attorneys made their oral arguments on January 12, 2009. After due consideration of the Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order, along with the exception and brief filed by Mr. Pittman and the oral argument of both attorneys, and pursuant to the stipulation and consent of Mr. Pittman, Mr. Avant and Ms. Cangelosi,

**IT IS ORDERED BY THE LOUISIANA PROFESSIONAL ENGINEERING AND  
LAND SURVEYING BOARD (“LAPELS”) THAT:**

1.

The Proposed Findings of Fact and Conclusions of Law are adopted as final in this case, and the same is incorporated herein by reference as if set forth *in extenso*.

2.

The charges against Thomas E. Pittman, P.E. under La. R.S. 37:698(A)(2) are hereby dismissed due to insufficient evidence of a violation.

3.

The charges against Mr. Pittman under La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3), are hereby sustained.

4.

The charges against Mr. Pittman under La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2501(D), are hereby dismissed due to insufficient evidence of a violation.

5.

Mr. Pittman's professional engineer license, number PE-19516, is hereby suspended for eighteen (18) months beginning on January 26, 2009.

6.

Mr. Pittman is hereby assessed the actual costs incurred by LAPELS in connection with this case through the hearing in the amount of Five Thousand and No/100 (\$5,000.00) Dollars.

7.

During the period in which his professional engineer license is suspended, Mr. Pittman shall successfully complete and submit to LAPELS its online Louisiana Laws and Rules Examination with a score of ninety (90%) percent or higher.

8.

During the period in which his professional engineer license is suspended, Mr. Pittman shall successfully complete and submit to LAPELS its online Louisiana Professionalism and Ethics Examination with a score of ninety (90%) percent or higher.

9.

During the period in which his professional engineer license is suspended, Mr. Pittman shall complete thirty (30) hours of continuing professional development related to building system design and provide documentation of such to LAPELS.

10.

The Stipulated Final Findings of Fact and Conclusions of Law and this Stipulated Final Decision and Order shall be published on the LAPELS website, and a summary of this case shall be published in the official journal of LAPELS and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Mr. Pittman by name.

11.

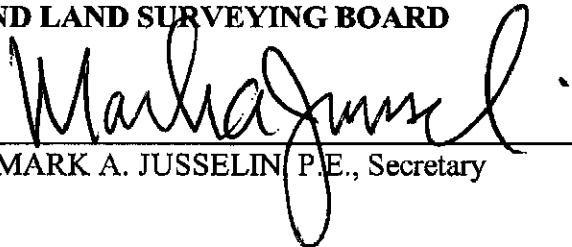
This vote of LAPELS was unanimous, with board member Ali M. Mustapha, P.E. recused.

12.

Mr. Pittman stipulates and consents to the Final Findings of Fact and Conclusions of Law and to this Final Decision and Order, and he understands and agrees that (a) this is a final and non-appealable decision and order and (b) he is waiving his right to appeal or seek judicial review of this decision and order.

THUS DONE at Baton Rouge, Louisiana, this 12th day of January, 2008.


**LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD**

By:   
MARK A. JUSSSELIN P.E., Secretary


**STIPULATED AND AGREED TO AND APPROVED BY:**

  
THOMAS E. PITTMAN, P.E.

**AVANT & FALCON**

  
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Board Prosecuting Attorney

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AND LAND SURVEYING BOARD  
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**IN THE MATTER OF THOMAS E. PITTMAN, P.E.**

**CASE NO. 2007-203**

**PRESENT AT THE HEARING:**

**Board Members:**

C.L. Jack Stelly, P.L.S., Chairman  
James D. Garber, PhD., P.E.  
Mark A. Jusselin, P.E.  
James E. Bowie, Jr., PhD., P.E.  
Roger D. Danzy, P.E.  
Rhaoul A. Guillaume, P.E.  
Norma Jean Mattei, PhD., P.E.  
Ali M. Mustapha, P.E. (recused)  
Richard L. Savoie, P.E.  
Miles B. Williams, P.E.

**Also Present:**

Donna D. Sentell, Executive Secretary  
Robert E. Eddleman, Deputy Executive Secretary/Director of Enforcement  
Victoria R. Hatton, Board Investigator  
D. Scott Landry, Board Counsel  
Celia R. Cangelosi, Prosecuting Attorney  
Thomas E. Pittman, P.E., Respondent

**STIPULATED FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter came on for hearing in Baton Rouge, Louisiana on November 17, 2008 at 10:00 a.m. After hearing the arguments of the respondent and the prosecuting attorney and upon due consideration of the testimony and other evidence presented, the Louisiana Professional Engineering and Land Surveying Board ("LAPELS") makes the following Final Findings of Fact and Conclusions of Law.

**FINAL FINDINGS OF FACT**

1.

Thomas E. Pittman, P.E. has been licensed with LAPELS as a professional engineer, number PE-19516, since 1981.

2.

Regenia Gay has never been licensed with LAPELS as a professional engineer and has never been authorized to practice and/or offer to practice engineering in the State of Louisiana.

3.

Ms. Gay was never employed by Mr. Pittman or under contract with him and, in fact, she had never spoken to him, corresponded with him or met him prior to the date of the hearing in this matter.

4.

Upon her own initiative and after obtaining the approval of the pastor of Mt. Zion Church (Leon Hickman), in 2007 Ms. Gay prepared and submitted to Mr. Hickman a set of engineering plans for the construction of a new church building for Mt. Zion Church to be located at 18018 Lee Road, Franklinton, Louisiana (the "Church Project"). See LAPELS' Exhibits P, T-1, T-2 and U.

5.

Mr. Hickman subsequently contacted Mr. Pittman about reviewing the Church Project engineering plans prepared by Ms. Gay. Until this time, Mr. Pittman did not know Mr. Hickman, had never spoken to him about the Church Project and had never performed engineering work for him or the church. It took Mr. Pittman four to five hours to review the engineering plans given to him by Mr. Hickman. Mr. Pittman also completed a portion of the Plan Review Application to be submitted to the Louisiana State Fire Marshal's Office, including the professional of record section.

6.

On September 26, 2007, Mr. Pittman signed and sealed the engineering plans for the Church Project and returned them (along with the Plan Review Application) to Mr. Hickman for submittal to the Louisiana State Fire Marshal's Office. See LAPELS' Exhibits D, P, T-1, T-2 and U.

7.

Mr. Pittman did not personally supervise or directly control either the preparation of the Church Project engineering plans by Ms. Gay or any other work performed by Ms. Gay in connection with the Church Project.

8.

On or before October 3, 2007, Mr. Hickman submitted to the Louisiana State Fire Marshal's Office the Plan Review Application and a one-page floor plan for the Church Project,

with Mr. Pittman listed as the professional of record for the project. See LAPELS' Exhibits D and P.

9.

The Louisiana State Fire Marshal's Office subsequently sent a series of letters to Mr. Pittman requesting additional information in connection with the Church Project submittal. In response to these letters, additional and modified engineering plans were provided to the Louisiana State Fire Marshal's Office. See LAPELS' Exhibits E, F, G, T-1, T-2 and U.

10.

On October 4, 2007, LAPELS received an informal complaint and documents from the Louisiana State Fire Marshal's Office which suggested that in 2007 Mr. Pittman may have signed, sealed and submitted to the Louisiana State Fire Marshal's Office engineering plans for the Church Project that contained multiple defects and which were not prepared under Mr. Pittman's responsible charge. On October 4, 2007, LAPELS staff sent a copy of the informal complaint to Mr. Pittman. LAPELS later received additional documents from the Louisiana State Fire Marshal's Office related to its informal complaint. See LAPELS' Exhibits C, D, E, F, G and P.

11.

LAPELS subsequently directed that a letter be sent to Mr. Pittman advising him that LAPELS was considering preferring charges against him involving a possible violation of (a) La. R.S. 37:698(A)(2), which prohibits gross negligence and/or gross incompetence in the practice of engineering, (b) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3), which prohibits licensees from signing and sealing plans not prepared under their responsible charge, and (c) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2501(D), which requires licensees to report to LAPELS violations of LAPELS' laws and/or rules. LAPELS also directed that its staff attempt to resolve this matter informally, if at all possible. On or about February 18, 2008, LAPELS staff sent the letter by certified mail (return receipt requested) and regular mail as directed, along with a proposed Consent Order. The letter also advised Mr. Pittman of his right to request an informal conference. The letter and proposed Consent Order were received by Mr. Pittman. See LAPELS' Exhibit H.

12.

On June 5, 2008, LAPELS received a letter from Mr. Pittman dated February 26, 2008, in which he denied the allegations in the proposed Consent Order. See LAPELS' Exhibit I.

13.

Mr. Pittman never requested an informal conference and did not accept the proposed Consent Order.

14.

On May 19, 2008, by a unanimous vote LAPELS preferred charges against Mr. Pittman, involving the alleged violation of (a) La. R.S. 37:698(A)(2) (which prohibits gross negligence and/or gross incompetence in the practice of engineering), (b) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3) (which prohibits licensees from signing and sealing plans not prepared under their responsible charge) and (c) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2501(D) (which requires licensees to report to LAPELS violations of LAPELS' laws and/or rules). LAPELS also directed that a hearing be set to consider the charges against Mr. Pittman on July 21, 2008 at 1:30 p.m. at the LAPELS office. A copy of the Notice of Charges and Hearing was sent to Mr. Pittman by certified mail (return receipt requested) on June 5, 2008. The letter and Notice of Charges and Hearing were received by Mr. Pittman on June 11, 2008. See LAPELS' Exhibit J.

15.

Upon motion of the prosecuting attorney, on July 8, 2008 LAPELS continued the hearing and rescheduled it for September 15, 2008 at 10:00 a.m. The Order continuing and rescheduling the hearing was received by Mr. Pittman on July 21, 2008. See LAPELS' Exhibits K and L.

16.

As a result of Hurricane Gustav and its aftermath, on September 10, 2008 LAPELS continued the hearing again and rescheduled it for November 17, 2008 at 10:00 a.m. The Order continuing and rescheduling the hearing was sent to Mr. Pittman by certified mail (return receipt requested) and by email. See LAPELS' Exhibits M, Q and R.

17.

On April 24, 1997, Mr. Pittman entered into a Consent Order with LAPELS in connection with Case No. 97-026E-6 (which also involved engineering plans submitted to the Louisiana State Fire Marshal's Office), in which he admitted to violations of La. R.S. 37:698(A)(6), *to wit* LAC

Title 46:LXI§1701 (now §2701) and §2103 (now §2503), regarding the proper sealing, signing and dating of plans and what constitutes responsible charge of engineering plans. In that 1997 Consent Order, Mr. Pittman agreed that thereafter he would have direct contact with all clients at the beginning of the projects on which he was engaged. He also agreed to the following sanctions: a \$1,000 fine (with \$500 suspended based upon no additional violations during the next twelve months), successful completion of LAPELS' online Louisiana Laws and Rules Examination, and publication of a summary of the matter in the LAPELS newsletter without name or license number. See LAPELS' Exhibit A.

18.

On August 19, 1999, Mr. Pittman entered into a Consent Order with LAPELS in connection with Case No. V99-115E-7 (which again involved engineering plans submitted to the Louisiana State Fire Marshal's Office), in which he admitted to violations of La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§1701 (now §2701) and §2103 (now §2503), regarding the proper sealing, signing and dating of plans, but "neither admitted nor denied" a violation regarding a lack of responsible charge of the engineering work in question. Mr. Pittman admitted that he had no contact with the client, was paid by the draftsman (not the client), and did not sign and seal the specifications for the plans. In that 1999 Consent Order, Mr. Pittman agreed that thereafter he would have direct contact with all clients at the beginning of the projects on which he was engaged. He also agreed to the following sanctions: a \$650 fine, the suspension of his professional engineer license for eighteen months (with all eighteen months of the suspension stayed based upon his payment of the fine and successful completion of an engineering ethics course through Texas Tech University), and publication of a summary of the matter in the official journal of LAPELS with name and the reporting of the matter to NCEES. See LAPELS' Exhibit B.

### **FINAL CONCLUSIONS OF LAW**

1.

LAPELS has jurisdiction over this matter because Mr. Pittman is licensed by LAPELS as a professional engineer and he signed and sealed engineering plans for the construction of a building in Louisiana.



2.

La. R.S. 37:698(A) has at all relevant times provided, in pertinent part, as follows:

**§698. Disciplinary proceedings against licensees and certificate holders; procedure**

A. The board shall have the power to take disciplinary action against any licensee or certificate holder found by the board to be guilty of any of the following acts or offenses:

. . .

(2) Any fraud, deceit, gross negligence, material misrepresentation, gross incompetence, or gross misconduct in the practice of engineering or land surveying.

. . .

(6) Violation of any provision of this Chapter or any rules or regulations adopted and promulgated by the board.

. . .

3.

At all relevant times, "gross negligence" has been defined as follows:

*Gross Negligence*—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee characterized by the licensee's lack of reasonable care, precaution, or attention to the health, safety, or welfare of others, which could result in injury or damage to life or property or financial loss. Examples of practice which the board may consider to constitute gross negligence include, but are not limited to:

a. the preparation of an incomplete or inaccurate engineering or land surveying plan or document that is below acceptable standards, which is released for construction or other lawful purposes, and which could result in financial loss, damage or injury; or

b. failure of the licensee to exercise reasonable diligence and care in providing professional services, which could result in financial loss, damage or injury.

LAC Title 46:LXI§105(A).

4.

At all relevant times, "gross incompetence" has been defined as follows:

*Gross Incompetence*—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty he/she undertakes. (The practice of engineering in an area other than that in which the licensee has been issued a license will not be considered as evidence of gross incompetence, provided the licensee is otherwise qualified by education or experience.) Examples of practice which the board may consider to constitute gross incompetence include but are not limited to:

a. the undertaking of assignments other than those for which the licensee is qualified by education or experience in the specific technical fields involved; or

b. the affixing of the licensee's signature or seal to any engineering or land surveying plan or document dealing with the subject matter in which the licensee lacks competence by virtue of education or experience.

LAC Title 46:LXI§105(A).

5.

At all relevant times, "responsible charge" has been defined as follows:

"Responsible charge" shall mean the direct control and personal supervision of engineering or land surveying service or work, as the case may be.

La. R.S. 37:682(14).

6.

LAC Title 46:LXI§2501(D) has at all relevant times provided as follows:

**§2501. Scope; Knowledge; Definition of Licensee**

. . .

D. A licensee possessing personal knowledge of a violation of the licensure law or the board rules found in this Chapter shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require. The licensee shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the licensee, from the board.

7.

LAC Title 46:LXI§2503(C) and (D) have at all relevant times provided as follows:

**§2503. Licensees**

. . .

C. Licensees shall approve and seal only those design documents and surveys which are safe for public health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land-surveying standards or practice, and which conform to applicable laws and ordinances.

1. Licensees shall comply fully with Chapter 27 (Use of Seals).

2. Except as permitted by §2701.A.3.b.ii.(a), licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee's responsible charge.

3. Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee's responsible charge); however, licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided:

1. the client furnishes the documentation of all such work submitted to him by the previous licensee(s), or their related design professional(s);

2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and

3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, the date of execution, and shall become the responsibility of the licensee.

8.

LAC Title 46:LXI§2505(C) has at all relevant times provided as follows:

**§2505. Services**

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal and signature to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

9.

LAC Title 46:LXI§2701(A)(3) has at all relevant times provided, in pertinent part, as follows:

**§2701. Seal and Signature**

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

**3. Seal Responsibility**

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. . . .

b. Responsible Charge

i. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a licensee only when:

(a). the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the licensee or the licensee's employee as long as the employee works in the licensee's place(s) of business;

(b). the licensee supervises the initial preparation of the plans, specifications, drawings, reports or other documents and has continued input into their preparation prior to their completion;

(c). the licensee reviews the final plans, specifications, drawings, reports or other documents; and

(d). the licensee has the authority to, and does make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents:

(i). if the plans, specifications, drawings, reports, or other such documents are prepared outside the licensee's office, the licensee shall maintain all evidence of the licensee's responsible charge including correspondence, time records, check prints, telephone logs, site visit logs, research done for project, calculations, changes, and all written agreements with any persons preparing the documents outside of the licensee's office accepting professional responsibility for such work;

(ii). a licensee failing to maintain written documentation of the items set forth above, when such are applicable, shall be considered to be in violation of R.S. 37:698(A)(6), and the licensee shall be subject to the disciplinary action procedure as set forth in the licensure law.

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:

(a). in the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design;

(b). certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, territory, or possession of the United States, or the District of Columbia, shall be sealed by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

10.

Louisiana law gives LAPELS authority to take disciplinary action against Mr. Pittman based on the facts in this case.

11.

Pursuant to La. R.S. 37:698(A), (B) and (J), the disciplinary action which LAPELS can take against any person found by LAPELS to be guilty of any of the acts or offenses listed in La. R.S. 37:698(A) includes, but is not limited to, reprimand, probation, suspension, revocation, fine (in an amount not to exceed \$5,000 per violation) and all reasonable costs.

12.

Since there was insufficient evidence that Mr. Pittman committed gross negligence and/or gross incompetence in the practice of engineering, he did not violate La. R.S. 37:698(A)(2).

13.

Since Mr. Pittman signed and sealed engineering plans not prepared under his responsible charge, he violated La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3).

14.

Since there was insufficient evidence as to whether Mr. Pittman failed to report to LAPELS another individual's violations of LAPELS' laws and/or rules, he did not violate La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2501(D).

15.

A Final Decision and Order will issue this date assessing appropriate disciplinary action against Mr. Pittman.

Baton Rouge, Louisiana, this 12th day of January, 2008.

**LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD**

By: \_\_\_\_\_

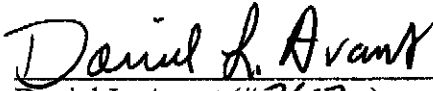
MARK A. JUSSELIN, P.E., Secretary

**STIPULATED AND AGREED TO AND APPROVED BY:**



**THOMAS E. PITTMAN, P.E.**

**AVANT & FALCON**



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