

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 BROOKLINE AVENUE, SUITE 121
BATON ROUGE, LOUISIANA 70809-1443
(225) 925-6291**

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| IN THE MATTER OF: |) | CASE NO.: 2009-69 |
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| WALTER F. ZEHNER III, P.E. |) | |
| |) | |
| RESPONDENT |) | |
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CONSENT ORDER

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the “Board”], by and through its Executive Secretary, pursuant to authorization by the Board, and Walter F. Zehner III, P.E. [hereinafter “Respondent”], hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as a professional engineer, number PE – 14623; however, his license has been in an expired status since April 1, 2002. At all times material hereto, Respondent was the owner of Zehner & Associates, Inc.

An investigation was opened based upon the Board’s receipt of information which showed that Respondent practiced and/or offered to practice engineering in the State of Louisiana during which time his Louisiana professional engineer license was expired. The investigation disclosed that since April 1, 2002 Respondent has prepared, signed and sealed engineering plans for twelve (12) projects in Louisiana which he submitted to the Louisiana State Fire Marshal’s office for approval. Additionally, in 2009 Respondent prepared, signed and sealed engineering plans for the St. Bernard Parish Fire Station #5 project in St. Bernard, Louisiana.

The investigation also disclosed that on its Application for Firm Registration dated April 19, 2006, Zehner & Associates, Inc. designated Johann L. Palacios, P.E. as its only supervising professional. On December 20, 2007, the Board received a letter from Mr. Palacios notifying the Board that he was no longer employed by Zehner & Associates, Inc.. On September 24, 2008, Respondent submitted Zehner & Associates, Inc.’s online license renewal in which it continued to list Mr. Palacios as its only supervising professional. Zehner & Associates, Inc. thereafter failed to designate another supervising professional to replace Mr. Palacios despite a request from the Board that it do so. Zehner & Associates, Inc. continued to practice and/or offer to

practice engineering in the State of Louisiana after December 20, 2007, including preparing and issuing the engineering plans for the St. Bernard Parish Fire Station project mentioned above.

La. R.S. 37:698(A)(9) and (16) prohibit licensees from practicing and/or offering to practice engineering in the State of Louisiana with an expired license. La. R.S. 37:698(A)(1) prohibits fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a renewal license. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2305, requires that (a) all firms designate one or more supervising professionals who are active employees of the firm and (b) all professional services provided by a firm must be performed under the responsible charge of one or more of its supervising professionals. La. R.S. 37:698(A)(12) prohibits licensees from aiding or assisting another person in violating the laws and/or rules of the Board. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(9), (12) and (16), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:698(A)(1), (6), (9), (12) and (16), La. R.S. 37:698(H) and LAC Title 46:LXI§2305 were in effect at all times material hereto.

It is undisputed that (a) Respondent's license to practice and/or offer to practice engineering in Louisiana has been expired since April 1, 2002, (b) on at least thirteen occasions during this time period Respondent practiced and/or offered to practice engineering in Louisiana and (c) Respondent aided or assisted Zehner & Associates, Inc. in violating the laws and/or rules of the Board.

By letter dated May 24, 2010, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that he may have violated (a) La. R.S. 37:698(A)(9) and (16), relative to practicing and/or offering to practice engineering in the State of Louisiana with an expired license and (b) La. R.S. 37:698(A)(12), relative to the aiding or assisting of another person in violating the laws and/or rules of the Board.

Wishing to dispense with the need for further disciplinary action and to conclude the instant proceeding without further delay and expense, for the purpose of this proceeding only, Respondent and the Board do hereby enter into this Consent Order, in which Respondent of his own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to (a) pay a fine of five thousand (\$5,000.00) dollars, (b) pay administrative costs of four

hundred thirteen and 88/100 (\$413.88) dollars, (c) immediately cease and desist the practicing of and/or offering to practice engineering in the State of Louisiana until such time as he renews his expired Louisiana professional engineer license, (d) pay past unpaid renewal fees of six hundred forty-five (\$645.00) dollars, (e) successfully complete the Board's online Louisiana Laws and Rules Examination, (f) successfully complete the Board's online Professionalism and Ethics Examination, (g) submit to the Board his up-to-date, complete Professional Development Activity Log with all supporting documentation for the renewal period of April 1, 2008 to March 31, 2010 and (h) the publishing of this Consent Order on the Board's website and a summary of this matter in the Board's official journal, the Louisiana Engineer and Surveyor Journal, and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name.

Respondent admits to violations of the referenced statutes and/or rules regarding the practicing or and/or offering to practice engineering in the State of Louisiana with an expired license and the aiding or assisting of another person in violating the laws and/or rules of the Board. Respondent acknowledges awareness of said laws and/or rules and states that he will comply with all applicable laws and rules henceforth. Respondent has been advised of his right to be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and present witnesses and evidence in his own behalf, and he hereby waives this right and his right to appeal; and he states affirmatively that he has been afforded all administrative remedies due him under the law.

Therefore, in consideration of the foregoing and by signing this Consent Order, Respondent does hereby waive his right to a hearing before the Board, to the presenting of evidence and witnesses in his behalf, to Findings of Fact and Conclusions of Law in this case, and to judicial review of this Consent Order.

Respondent hereby represents (a) that he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) that he has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with him by any person whatsoever to cause the execution of this instrument and (c) that the sanctions set forth in this Consent Order do not prevent the Board from taking further

disciplinary or enforcement action against Respondent on matters not specifically addressed in this Consent Order.

WHEREFORE, the Louisiana Professional Engineering and Land Surveying Board and Respondent agree that:

1. Respondent shall pay a fine of five thousand (\$5,000.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

2. Respondent shall pay administrative costs of four hundred thirteen and 88/100 (\$413.88) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

3. Respondent shall immediately cease and desist the practicing of and/or offering to practice engineering in Louisiana until such time as he renews his expired Louisiana professional engineer license; and

4. Respondent shall pay past unpaid renewal fees of six hundred forty-five (\$645.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and

5. Respondent shall successfully complete the Board's online Louisiana Laws and Rules Examination with a score of 90% or higher and return it to the Board within sixty (60) days of the effective date of this Consent Order; and

6. Respondent shall successfully complete the Board's online Professional Ethics Examination with a score of 90% or higher and return it to the Board within sixty (60) days of the effective date of this Consent Order; and

7. Respondent shall submit to the Board his up-to-date, complete Professional Development Activity Log with all supporting documentation for the renewal period of April 1, 2008 to March 31, 2010 within thirty (30) days of the effective date of this Consent Order; and

8. This Consent Order shall be published on the Board's website and a summary of this matter shall be printed in the official journal of the Board, the Louisiana Engineer and Surveyor Journal, and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name; and

9. This Consent Order shall not become effective unless and until it is accepted and signed by and on behalf of the Board. Should the Board not accept and sign this Consent Order, it is agreed that presentation of this matter to the Board shall not prejudice the Board or any of its members from further participation, consideration, or resolution of any further proceedings herein.

LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD

DATED 7/19/2010

BY: Donna D. Sentell
DONNA D. SENTELL, Executive Secretary

DATED 7/12/10

[Signature]
WALTER F. ZEHNER III, P.E., Respondent

Witnesses to the signature of
Walter F. Zehner III, P.E.

[Signature]
Print Name: John T. Lambert, Jr.

[Signature]
Print Name: Therese L. Lacombe