

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

IN THE MATTER OF:)	CASE NO.: 2010-49
)	
D. KELLEY & ASSOCIATES, INC.)	
)	
RESPONDENT)	
)	
)	
)	
)	

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 D. Kelley & Associates, Inc. [hereinafter “Respondent”], by and through its duly authorized undersigned representative, hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as a professional engineering firm, number EF – 3631; however, its license was in an expired status from April 1, 2009 through April 15, 2010.

An investigation was opened based upon the Board’s receipt of an Application to Renew Expired Firm License, in which Respondent admitted that it practiced or offered to practice engineering in the State of Louisiana during which time its Louisiana professional engineering firm license was expired. The investigation disclosed that between April 1, 2009 and April 15, 2010 Respondent admittedly provided engineering services on approximately sixteen (16) projects in Louisiana and advertised itself in the Houma, Louisiana AT&T Real Yellow Pages under the heading “Engineers-Civil”.

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(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(9) 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)(9) and (16) and 37:698(H) were in effect at all times material hereto.

It is undisputed that Respondent's license to practice and/or offer to practice engineering in Louisiana was expired from April 1, 2009 through April 15, 2010 and that during this time period Respondent practiced and/or offered to practice engineering in Louisiana.

By letter dated July 1, 2010, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that it may have violated 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.

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 its own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to (a) pay a fine of one thousand (\$1,000.00) dollars, (b) pay administrative costs of two hundred thirty-three and 29/100 (\$233.29) dollars, (c) pay past unpaid renewal fees of one hundred eighty (\$180.00) dollars, (d) have its supervising professional successfully complete the Board's online Louisiana Laws and Rules Examination, and (e) 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 of and/or offering to practice engineering in the State of Louisiana with an expired license. Respondent acknowledges awareness of said laws and/or rules and states that it will comply with all applicable laws and rules henceforth. Respondent has been advised of its 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 its own behalf, and it hereby waives this right and its right to appeal; and it states affirmatively that it has been afforded all administrative remedies due it under the law.

Therefore, in consideration of the foregoing and by signing this Consent Order, Respondent does hereby waive its right to a hearing before the Board, to the presenting of

evidence and witnesses in its 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 it fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) that it has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with it 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 one thousand (\$1,000.00) 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 two hundred thirty-three and 29/100 (\$233.29) 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 pay past unpaid renewal fees of one hundred eighty (\$180.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and
4. Respondent shall have its supervising professional 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
5. 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
6. 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 July 6, 2010

BY: Donna D. Sentell 7/19/2010
DONNA D. SENTELL, Executive Secretary

D. KELLEY & ASSOCIATES, INC., Respondent

DATED 7/6/2010

BY: D. G. Kelley
DENNIS G. KELLEY, P.E., President

Witnesses to the signature of
D. Kelley & Associates, Inc.

Tara Tamporello
Print Name: Tara Tamporello

GR Fitzgerald
Print Name: GR Fitzgerald