

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

Received
JUN 24 2011
By LAPELS Enforcement

IN THE MATTER OF:) CASE NO.: 2010-69
)
DAVID B. SCALFANO, P.E., P.L.S.)
)
RESPONDENT)
)
_____)

CONSENT ORDER

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the "Board"], by and through its Executive Director, pursuant to authorization by the Board, and David B. Scalfano, P.E., P.L.S. [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-19255, and as a professional land surveyor, number PLS-4527.

At all times material hereto, Scalfano Engineering, Inc. was licensed in the State of Louisiana as a professional engineering firm, number EF-3118, and as a professional land surveying firm, number VF-524. At all times material hereto, Respondent was an owner, employee and supervising professional of Scalfano Engineering, Inc.

An investigation was opened based upon the Board's receipt of a formal affidavit of complaint which alleged that Respondent had illegally used the work of an architectural firm. The investigation disclosed that in September 2009 Respondent (on behalf of and in the name of Scalfano Engineering, Inc.) prepared and submitted to his client's construction contractors technical specifications for the partial renovation of an office building for Cameron Valve & Measurement in Hammond, Louisiana; however, a substantial part of the specifications were taken from other documents previously prepared by the architectural firm (Crump Wilson Architects, L.L.C.) and submitted to the same client. Respondent failed to provide written notification to the architectural firm of his engagement by the client immediately upon acceptance of the engagement, and the technical specifications did not contain a notation describing the work done by the Respondent. The investigation also disclosed that the technical

specifications prepared and submitted by Respondent to his client's construction contractors as completed work did not contain his Louisiana professional engineer seal, signature, or date of execution.

La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(D), requires that a licensee (a) provide written notice of the licensee's engagement to other related design professionals whose work is being completed, corrected, revised, or added to, (b) include a notation on the documents describing the work done by the licensee and (c) affix his/her seal, signature and date of execution on the documents. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(a)(i), requires licensees to affix their seal, signature and date of execution on all engineering documents that have been issued by the licensee as completed work. 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)(6), *to wit* LAC Title 46:LXI§2503(D) and §2701(A)(4)(a)(i), and La. R.S. 37:698(A)(12), 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)(6) and (12), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(D) and §2701(A)(4)(a)(i) were in effect at all times material hereto.

It is undisputed that Respondent **(a)** prepared and submitted to his client's construction contractors technical specifications taken from other documents previously prepared by another design professional for the same client, **(b)** failed to provide the previous design professional with proper written notification immediately upon acceptance of the engagement, **(c)** failed to include on the technical specifications a notation describing the work done by the Respondent, **(d)** failed to properly seal, sign, and date the technical specifications and **(e)** aided or assisted Scalfano Engineering, Inc. in violating the laws and/or rules of the Board..

By letter dated June 16, 2011, 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)(6), *to wit* LAC Title 46:LXI§2503(D), relative to (i) providing timely written notice of the licensee's engagement to other related design professionals whose

work is being completed, corrected, revised, or added to, (ii) including a notation on the documents describing the work done by the licensee and (iii) affixing the licensee's seal, signature and date of execution on the documents, **(b)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(a)(i), relative to properly sealing, signing, and dating engineering documents that have been issued by the licensee as completed work, and **(c)** 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 one thousand seven hundred fifty (\$1,750.00) dollars, **(b)** pay administrative costs of eight hundred fifteen and 67/100 (\$815.67) dollars, **(c)** successfully complete the Board's online Louisiana Laws and Rules Quiz, **(d)** successfully complete the Board's online Louisiana Professionalism and Ethics Quiz, 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 laws and/or rules regarding **(a)** providing proper notification to previous design professionals before completing, correcting, revising, or adding to their work, and including a notation on the documents describing the work done by the licensee, **(b)** the proper sealing, signing, and dating of engineering documents and **(c)** 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 his 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 one thousand seven hundred fifty (\$1,750.00) 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 eight hundred fifteen and 67/100 (\$815.67) 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 successfully complete the Board's online Louisiana Laws and Rules Quiz 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

4. Respondent shall successfully complete the Board's online Louisiana Professionalism and Ethics Quiz 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 7/25/11

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

DATED 6/23/2011

David B. Scalfano
DAVID B. SCALFANO, P.E., P.L.S., Respondent

Witnesses to the signature of
David B. Scalfano, P.E., P.L.S.

Robert Kaack
Print Name: ROBERT KAACK

Jerry Magliolo
Print Name: Jerry Magliolo