

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

Received  
SEP 07 2012  
By LAPELS Enforcement

IN THE MATTER OF: ) CASE NO.: 2011-91  
)  
EUGENE A. BRIAN, P.E. )  
)  
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 Eugene A. Brian, 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-11960.

An investigation was opened based upon the Board's receipt of information and documents which suggested that Respondent may have engaged in plan stamping in connection with his practice of engineering in Louisiana. The investigation disclosed that in 2010 Respondent sealed, signed, dated and issued an engineering design plan sheet for the elevation of the residence of Darlene Self in Marrero, Louisiana, and also issued engineering design plan sheets for the elevation of the residences of Pamela Englin in Marrero, Louisiana and Conchetta Carter in Avondale, Louisiana. The investigation also disclosed that in 2010 Respondent sealed and signed (but did not date) post-construction certification letters relating to each of the same projects. The engineering design plan sheets and the post-construction certification letters were prepared by an unlicensed draftsman (Larry Trumbaturi) who was not employed by Respondent. Respondent did not exercise responsible charge over either the preparation of those documents by Mr. Trumbaturi or any other work performed by Mr. Trumbaturi or anyone else in connection with these projects.

La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C) and 2701(A)(3), prohibit licensees from sealing, signing or issuing engineering documents not prepared by the licensee or under their responsible charge. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§ 2701(A)(2)(f), requires that a seal always be accompanied by the licensee's signature and date and that the signature and date be placed adjacent to or across the seal. 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(C) and (D), 2505(C), 2701(A)(2)(f) and 2701(A)(3), 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 (H) and LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(2)(f) and 2701(A)(3) were in effect at all times material hereto.

It is undisputed that **(a)** Respondent sealed, signed, dated and/or issued engineering design sheets for the elevation of residences in Louisiana and sealed and signed (but did not date) post-construction certification letters relating to each of the same projects, **(b)** the engineering design plan sheets and the post-construction certification letters were prepared by an unlicensed draftsman who was not employed by Respondent and **(c)** Respondent did not exercise responsible charge over either the preparation of the documents by the unlicensed draftsman or any other work performed by that individual or anyone else in connection with the project.

By letter dated August 13, 2012, 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(C) and (D), 2505(C) and 2701(A)(3), relative to sealing, signing or issuing engineering documents not prepared by the licensee or under their responsible charge and **(b)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§ 2701(A)(2)(f), relative to the licensee's seal not being accompanied by the licensee's signature and date or the signature and date not being placed adjacent to or across the seal.

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 two thousand five hundred (\$2,500.00) dollars, **(b)** pay administrative costs of one thousand two hundred thirty two and 05/100 (\$1,232.05) 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 publication 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 the use of seals and the exercise of responsible charge. 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. Respondent further acknowledges awareness of the fact that the signed original of this Consent Order will remain in the custody of the Board as a public record and will be made available for public inspection and copying upon request.

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 two thousand five hundred (\$2,500.00) 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 one thousand two hundred thirty two and 05/100 (\$1,232.05) 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, staff, attorneys or representatives from further participation, consideration or resolution of any further proceedings herein.

LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD

DATED 24 Sept '12

BY: Donna Sentell  
DONNA D. SENTELL, Executive Director

DATED 8-23-2012

Eugene A Brian  
EUGENE A BRIAN, P.E., Respondent

Witnesses to the signature of  
Eugene A. Brian, P.E.

Sandra Adams  
Print Name: SANDRA ADAMS

Paola Catalinotto  
Print Name: Paola Catalinotto

Approved by:

A. Scott Tillery  
TILLERY & TILLERY  
701 Metairie Road, Suite 2A201  
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Attorneys for Eugene A. Brian, P.E.