

**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 - 20
)	
HUMMING BIRD & ASSOCIATES, INC.)	
)	
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 Humming Bird & Associates, Inc. [hereinafter "Respondent"], by and through its duly authorized undersigned representative, hereby agree to the following:

At all times material hereto, Respondent was not licensed in the State of Louisiana as a professional engineering firm, and therefore it was not authorized to practice and/or offer to practice engineering in the State of Louisiana.

An investigation was opened based upon the Board's receipt of a formal affidavit of complaint which suggested that Respondent may have engaged in the unlicensed practice of and/or offering to practice engineering in Louisiana. The investigation disclosed that in January 2010 Respondent's owner Kirby G. Scroggs, P.E. (on behalf of and in the name of Respondent) signed, sealed and submitted to the Louisiana Department of Health and Hospitals engineering plans and specifications for a sewer treatment plant for Nebo Elementary School in Jena, Louisiana.

La. R.S. 37:681 and 37:700(A)(1) prohibit the practicing of and/or offering to practice engineering in Louisiana without proper licensure. La. R.S. 37:700(H) permits the Board to take enforcement action against persons who violate La. R.S. 37:681 and 37:700(A)(1), 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. 37:681, 37:700(A)(1) and 37:700(H) were in effect at all times material hereto.

It is undisputed that at all times material hereto Respondent was not licensed to practice and/or offer to practice engineering in Louisiana and that during this time Respondent practiced and/or offered to practice engineering in Louisiana without proper licensure.

By letter dated March 24, 2011, 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. 37:681 and

37:700(A)(1), relative to practicing and/or offering to practice engineering in Louisiana without proper licensure.

Wishing to dispense with the need for further enforcement 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) dollars, **(b)** pay administrative costs of four hundred thirty five and 37/100 (\$435.37) dollars, **(c)** immediately cease and desist the practicing and/or offering to practice engineering in Louisiana until such time as it is duly licensed by the Board, and **(d)** 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 practicing of and/or offering to practice engineering in Louisiana without proper licensure. 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 its 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 actions 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) 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 thirty five and 37/100 (\$435.37) 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 and/or offering to practice engineering in Louisiana until such time as it is duly licensed by the Board; and

4. 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

5. This Consent Order shall not become 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

HUMMING BIRD & ASSOCIATES, INC.,
Respondent

DATED 6/21/11

BY: Kirby G. Scroggs
KIRBY G. SCROGGS, P.E.

Witnesses to the signature of
Humming Bird & Associates, Inc.

Justin Owens
Print Name: Justin Owens

Tyson Durote
Print Name: Tyson Durote

Shirley A. Durote for
Council for Respondent