

**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.: 2010-37 |
| |) | |
| ZEHNER & ASSOCIATES, INC. |) | |
| |) | |
| 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 Zehner & 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 – 3460.

An investigation was opened based upon the Board's discovery of evidence which suggested that Respondent provided false information in applying for a renewal license and practiced and/or offered to practice engineering in the State of Louisiana without a supervising professional. The investigation disclosed that on its Application for Firm Registration dated April 19, 2006, Respondent 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 Respondent. On September 24, 2008, Respondent submitted its online license renewal in which it continued to list Mr. Palacios as its only supervising professional. Respondent thereafter failed to designate another supervising professional to replace Mr. Palacios despite a request from the Board that it do so. Respondent continued to practice and/or offer to practice engineering in the State of Louisiana after December 20, 2007, including preparing and issuing engineering plans for the St. Bernard Parish Fire Station #5 project in St. Bernard, Louisiana.

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(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(1) and La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2305, 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), La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2305 and 37:698(H) were in effect at all times material hereto.

It is undisputed that Respondent provided false information in applying for a renewal license and that since at least December 20, 2007 Respondent has practiced and/or offered to practice engineering in Louisiana without a supervising professional.

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 it may have violated (a) La. R.S. 37:698(A)(1), relative to providing false information in applying for a renewal license, and (b) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2305, relative to practicing and/or offering to practice engineering in the State of Louisiana without a supervising professional.

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 (a) to pay a fine of two thousand five hundred (\$2,500.00) dollars, (b) to pay administrative costs of four hundred fourteen and 23/100 (\$414.23) dollars, (c) to immediately cease and desist the practicing of and/or offering to practice engineering in the State of Louisiana until such time as it properly notifies the Board in writing of its designation of one or more supervising professionals who are active employees of the firm, (d) that if it fails to notify the Board in writing of its designation of one or more supervising professionals who are active employees of the firm within thirty (30) days of the effective date of this Consent Order, its license will be automatically suspended until it does so 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 providing of false information in applying for a renewal license and the practicing and/or offering to practice engineering in the State of Louisiana without a supervising professional. 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 on 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 on 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 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 four hundred fourteen and 23/100 (\$414.23) 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 the State of Louisiana until such time as it properly notifies the Board in writing of its designation of one or more supervising professionals who are active employees of the firm; and

4. If Respondent fails to notify the Board in writing of its designation of one or more supervising professionals who are active employees of the firm within thirty (30) days of the effective date of this Consent Order, its license shall be automatically suspended until it does so; 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 7/19/2010

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

DATED 7/12/10

ZEHNER & ASSOCIATES, INC.
BY: [Signature]
WALTER F. ZEHNER III, P.E., President

Witnesses to the signature of
Zehner & Associates, Inc.

[Signature]
Print Name John Lambert, Jr.

[Signature]
Print Name Therese Carroquette