

**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. 2013-101

MICHAEL K. A. GURTLER

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 Michael K. A. Gurtler [hereinafter “Respondent”], hereby agree to the following:

At all times material hereto, Respondent was not licensed in the State of Louisiana as a professional engineer and, therefore, was not authorized to practice and/or offer to practice engineering in the State of Louisiana. At all times material hereto, Gurtler Bros. Consultants, Inc. [hereinafter “GBCI”] was licensed in the State of Louisiana as a professional engineering firm, number EF-2475. At all times material hereto, Respondent was the President and an owner of GBCI.

An investigation was opened based upon the Board’s receipt of a sworn affidavit of complaint which suggested that GBCI may have violated the laws and/or rules of the Board. The investigation disclosed that in 2013 Respondent (on behalf of and in the name of GBCI) prepared, signed and issued to a client in Louisiana an inspection report relative to hailstorm damage to a residence at 10 Darby Court in Marrero, Louisiana. The client requested that Respondent prepare the inspection report in order to rebut an engineering report prepared by an engineering firm for the property insurer of the residence. Respondent’s report (a) identified Respondent as the President of GBCI, (b) described GBCI as a Louisiana-licensed professional engineering firm which engages in the business of “engineering and inspections” and provides “engineering services” and (c) stated that the inspection report was an “instrument of professional service” and was a “professional opinion”. The reference to GBCI being a Louisiana-licensed professional engineering firm was accompanied by GBCI’s licensure number and was placed directly above Respondent’s signature, name and title.

The investigation also disclosed that in 2013, prior to his preparation of the inspection report, Respondent gave to the client both (a) his curriculum vitae which (i) identified Respondent as the President of GBCI and (ii) described GBCI as a firm which engages in the business of “engineering and inspections” and provides “engineering services”; and (b) his “expert testimony record” which described GBCI as a firm which engages in the business of “engineering and inspections” and provides “engineering services”.

La. R.S. 37:700(A)(7) prohibits the use of the words “engineer”, “engineering” or any modification or derivative thereof in a person’s name or form of business or activity 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. 37:700(A)(7), 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. 37:700(A)(7) and (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 in 2013 Respondent used the word “engineering” in conjunction with his name and business activities in Louisiana without proper licensure.

By letter dated July 29, 2014, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that he may have violated La. R.S. 37:700(A)(7), relative to using the word “engineering” or any modification or derivative thereof in a person’s name or form of business or activity 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 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 (\$1,000.00) dollars, (b) pay administrative costs of seven hundred sixty and 17/100 (\$760.17) dollars, (c) immediately cease and desist the use of the words “engineer”, “engineering” or any modification or derivative thereof in referring to himself, in conjunction with his name or in describing or promoting his business or activities in Louisiana until such time as he 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 that his conduct as set forth above constitutes violations of the above referenced laws and/or rules as stated herein. 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 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 signing this Consent Order, Respondent does hereby waive his right to a hearing before the Board, to the presenting of evidence and witnesses on 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 (\$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 seven hundred sixty and 17/100 (\$760.17) 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 use of the words “engineer”, “engineering” or any modification or derivative thereof in referring to himself, in conjunction with his name or in describing or promoting his business or activities in Louisiana until such time as he 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 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

DATE: 28 January 2015

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

DATE: 11/19/14

Michael K. A. Gurtler
MICHAEL K. A. GURTLER, Respondent

Witnesses to the signature of
Michael K. A. Gurtler

Albert Nicoud
Print Name: Albert Nicoud

Tyson Durote
Print Name: Tyson Durote