

**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. 2013-103
)	
FULTON V. CLINKSCALES, JR., 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 Fulton V. Clinkscates, Jr., 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 land surveyor, number PLS–5005. At all times material hereto, Freeland-Clinkscates & Associates, Inc. of N.C. [hereinafter “Freeland”] was not licensed in the State of Louisiana as a professional engineering firm or professional land surveying firm and, therefore, was not authorized to practice and/or offer to practice engineering or land surveying in the State of Louisiana. Freeland subsequently became licensed in the State of Louisiana as a professional land surveying firm, number VF-729, effective November 14, 2014. At all times material hereto, Respondent was an employee, the President and the owner of Freeland. Respondent is now the supervising professional of Freeland.

An investigation was opened based upon the Board’s receipt of information and documents which suggested that Freeland may have engaged in the unlicensed practice of and/or offering to practice engineering and/or land surveying in Louisiana. The investigation disclosed that in 2013 Respondent (in the name and on behalf of Freeland) (a) prepared and issued to their client a preliminary ALTA/ACSM Land Title Survey plat dated January 21, 2013 for the MacArthur Business Park project located in Alexandria, Louisiana, which did not contain the requisite preliminary work disclaimer and (b) prepared, signed, sealed and issued to their client a final ALTA/ACSM Land Title Survey plat for the same project. Furthermore, Freeland identified itself on both plats as “engineers” and “land surveyors”.

La. R.S. 37:681 and 37:700(A)(1), (7) and (9), *to wit* LAC Title 46:LXI§2301(B), prohibit the practicing of and/or offering to practice engineering or land surveying and use of the words “engineer”, “engineering”, “land surveyor”. “land surveying” 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. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(b)(i), requires that all preliminary documents (a) be so marked in large bold letters, (b) contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales or as the basis for the issuance of a permit and (c) bear the name and licensure number of the licensee and the firm’s name, if applicable. 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§2701(A)(4)(b)(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. 37:681, La. R.S. 37:698(A)(6) and (12), La. R.S. 37:698(H), La. R.S. 37:700(A)(1), (7) and (9), LAC Title 46:LXI§2301(B) and LAC Title 46:LXI§2701(A)(4)(b)(i) were in effect at all times material hereto.

It is undisputed that (a) in 2013 Freeland was not licensed to practice and/or offer to practice engineering or land surveying in Louisiana, (b) during this time period Freeland practiced and/or offered to practice engineering and/or land surveying and used the words “engineers” and “land surveyors” to identify itself in conjunction with its business activities in Louisiana without proper licensure, (c) in 2013 Respondent aided or assisted Freeland in violating the laws and/or rules of the Board and (d) in 2013 Respondent (in the name and on behalf of Freeland) prepared and issued to their client a preliminary land surveying document for property located in Louisiana which did not contain the requisite preliminary work disclaimer.

By letter dated March 23, 2015, 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)(12), relative to the aiding or assisting of another person in violating the laws and/or rules of the Board and (b) La. R.S. 37:698(A)(6), *to wit* LAC Title

46:LXI§2701(A)(4)(b)(i), relative to placing the appropriate disclaimer on all preliminary documents, along with the licensee's name, licensure number and firm name.

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 two hundred fifty (\$1,250.00) dollars, (b) pay administrative costs of five hundred eighty-three and 20/100 (\$583.20) 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, (e) immediately cease and desist committing violations of the above referenced laws and/or rules and (f) 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 its 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 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 two hundred fifty (\$1,250.00) 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 five hundred eighty-three and 20/100 (\$583.20) 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. Respondent shall immediately cease and desist committing violations of the above referenced laws and/or rules; and
6. 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
7. 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: June 1, 2015

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

DATE: 4/9/15

Fulton V. Clink
FULTON V. CLINKSCALES, JR., P.L.S., Respondent

Witnesses to the signature of
Fulton V. Clink, Jr., P.L.S.

Lewis C Boyd
Print Name: LEWIS C BOYD JR

Karen A. Corn
Print Name: Karen A. Corn