

**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. 2013-106 |
| |) | |
| LEONARD H. HIRSCH, 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 Leonard H. Hirsch, 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–31854.

An investigation was opened based upon the Board’s receipt of information and documents which suggested that Respondent may have committed various violations in connection with his practice of engineering in Louisiana. The investigation disclosed that in 2013 Respondent sealed, signed and issued engineering design drawings for the remodeling of an existing building for the River City Grill in New Orleans, Louisiana. The investigation also disclosed that the drawings, which had been submitted to the Louisiana State Fire Marshal for review, contained material deficiencies, including failure to provide access for persons with disabilities in accordance with the ADA and ABA Accessibility Guidelines (July 23, 2004) and failure to provide the required minimum distance between the two exits in compliance with the National Fire Protection Association and the International Building Code.

Additionally, the investigation disclosed that (a) the drawings were prepared by an unlicensed person (contractor Erik M. Stapper) who was not employed by Respondent, (b) Respondent did not exercise responsible charge over the preparation of the drawings by the unlicensed person and (c) Respondent did not perform any calculations in connection with the drawings.

Furthermore, although Respondent claims that the drawings were only preliminary, the investigation disclosed that they did not contain the requisite preliminary work disclaimer.

La. R.S. 37:698(A)(2) prohibits licensees from committing any gross negligence and gross misconduct in the practice of engineering in Louisiana. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C), requires licensees to approve and seal only those design documents which are safe for public health, property and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to applicable laws and ordinances. 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)(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(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(2) and 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 2701(A)(4)(b)(i), 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)(2) and (6), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(C) and (D), 2505(C), 2701(A)(3) and 2701(A)(4)(b)(i) were in effect at all times material hereto.

It is undisputed that (a) in 2013 Respondent sealed, signed and issued engineering design drawings for the remodeling of an existing building in Louisiana, (b) the drawings were submitted to the Louisiana State Fire Marshal for review, (c) the drawings contained a number of material deficiencies, (d) the drawings were prepared by an unlicensed person who was not employed by Respondent, (e) Respondent did not exercise responsible charge over the preparation of the drawings by the unlicensed person, (f) Respondent did not perform any calculations in connection with the drawings and (g) although Respondent claims that the drawings were only preliminary, they did not contain the requisite preliminary work disclaimer.

By letter dated June 3, 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)(2), relative to gross negligence and/or gross misconduct in the practice of engineering in Louisiana, **(b)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(C), relative to approving and sealing only those design documents which are safe for public health, property

and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to applicable laws and ordinances, **(c)** 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 **(d)** 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 two thousand five hundred (\$2,500.00) dollars, (b) pay administrative costs of five hundred forty-six and 78/100 (\$546.78) 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 any of the violations referenced in this Consent Order 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 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 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 five hundred forty-six and 78/100 (\$546.78) 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 any of the violations referenced in this Consent Order; 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: 9/28/2015

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

DATE: 7-30-15

Leonard H. Hirsch
LEONARD H. HIRSCH, P.E. Respondent

Witnesses to the signature of
Leonard H. Hirsch, P.E.

Marylyn W. Rosen
Print Name: MARYLYN W. ROSEN

Mayumi Hirsch
Print Name: Mayumi Hirsch