

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. 2013-45
)	
TOMMY J. AVANT, 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 Tommy J. Avant, 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 – 34226. At all times material hereto, Integrated Management Services, P.A., Inc. [hereinafter "IMSPAI"] was licensed in the State of Louisiana as a professional engineering firm, number EF – 2662. On April 30, 2013, IMSPAI registered the trade name, "IMS Engineers", with the Louisiana Secretary of State. Andy A. Glasgow [hereinafter "Glasgow"] became licensed in the State of Louisiana as a professional engineer, number PE - 38082, effective June 3, 2013. Glasgow has never been certified in the State of Louisiana as an engineer intern (or "E.I."). However, Glasgow had been certified as an engineer intern in the State of Florida (Certificate No. 1100014584) since July 2, 2010). At all times material hereto, Respondent and Glasgow were employees of IMSPAI. Respondent has been the supervising professional of IMSPAI since April 2011.

An investigation was opened based upon the Board's receipt of information and documents which suggested that IMSPAI may have practiced and/or offered to practice engineering in Louisiana using a firm name which was different than the firm name contained on its certificate of licensure issued by the Board. The investigation disclosed that since 2003 IMSPAI has admittedly advertised itself on its website and elsewhere (and

provided and offered to provide engineering services on numerous projects) in Louisiana under the firm name of "IMS Engineers", which included at least seventy (70) such projects since 2009. Respondent contended that IMSPAI's use of the "IMS Engineers" trade name in that way was an exercise of its constitutionally protected commercial free speech rights and was not misleading. Additionally, the investigation disclosed that in 2012 Respondent (on behalf of and in the name of IMSPAI) sealed, signed, dated and issued a "Project Manual for Caddo Parish Green Parking Lot; Earl G. Williamson Park" located in Oil City, Louisiana [hereinafter "the Project"]. The Project Manual identified IMSPAI as "IMS Engineers". Furthermore, in connection with the Project, Glasgow distributed business cards in Louisiana which identified him as an "E.I." Although Glasgow has never been certified as an engineer intern in the State of Louisiana, Respondent contended that Glasgow's certification as an engineer intern in the State of Florida was sufficient for him to use the designation, did not misrepresent his professional qualifications, and did not assert that he could practice engineering.

La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2307, requires firms providing or offering to provide engineering services in Louisiana to identify themselves by the exact firm name contained on their certificate of licensure issued by the Board. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2509(B)(1), prohibits licensees from permitting the misrepresentation of any associate's academic or professional qualifications. 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. 37:698(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§2509(B)(1), 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. 37:698(A)(6) and (12), La. R.S. 37:698(H), La. R.S.

37:700(A)(7) and LAC Title 46:LXI§2307 and 2509(B)(1) were in effect at all times material hereto.

It is undisputed that **(a)** since 2003 IMSPAI has identified itself on its website and elsewhere (and provided and offered to provide engineering services) in Louisiana by a firm name which is different than the firm name contained on its certificate of licensure issued by the Board (although Respondent contended that IMSPAI's use of the "TMS Engineers" trade name in that way was an exercise of its constitutionally protected commercial free speech rights), **(b)** in connection with a project in 2012, Glasgow identified himself in Louisiana as an engineer intern (or "E.I.") when he possessed that credential issued by the State of Florida, not the State of Louisiana and **(c)** Respondent inadvertently assisted IMSPAI and Glasgow in violating the laws and/or rules of the Board.

By letter dated September 13, 2013, 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)(6), *to wit* LAC Title 46:LXI§2509(B)(1), relative to permitting the misrepresentation of any associate's academic or professional qualifications and **(b)** 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.

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 (\$1,000.00) dollars; **(b)** pay administrative costs of five hundred twenty and 01/100 (\$520.01) 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; and **(e)** 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 violated the referenced laws and/or rules regarding **(a)** permitting the presentation of an associate's academic or professional qualifications in a way that the "E.I." credential could be understood as having been issued by the State of Louisiana rather than the State of Florida and **(b)** the inadvertent assisting of another person in violating the laws and/or rules of the Board. 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 be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and present witnesses and evidence in his own behalf, and he hereby waives this right and 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 (\$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 five hundred twenty and 01/100 (\$520.01) 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 and return it to the Board within sixty (60) days of the effective date of this Consent Order; 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, 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

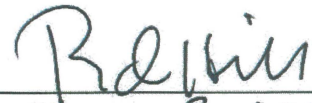
BY: Donna D. Sentell
DONNA D. SENTELL, Executive Director


DATE:

11/14/14


TOMMY J. AVANT, P.E., Respondent

Witnesses to the signature of
Tommy J. Avant, P.E.


Print Name: Rod Hill


Print Name: John D. Culhane

Approved by:


Victor J. Franckiewicz, Jr.
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