

LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 BROOKLINE AVENUE, SUITE 121
BATON ROUGE, LOUISIANA 70809-1443
(225) 925-6291

Received
MAR 19 2015
By LAPELS Enforcement

IN THE MATTER OF:)	CASE NO. 2013-79
)	
KELLY'S INDUSTRIAL)	
SERVICES, INC.)	
)	
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 Kelly's Industrial Services, Inc. [hereinafter "Respondent"], by and through its duly authorized undersigned representative, hereby agree to the following:

At all times material hereto, Respondent was not licensed in the State of Louisiana as a professional land surveying firm or professional engineering firm and, therefore, was not authorized to practice and/or offer to practice land surveying or engineering in the State of Louisiana.

An investigation was opened based upon the Board's receipt of information and documents which suggested that Respondent may have engaged in the unlicensed practice of and/or offering to practice land surveying in Louisiana. The investigation disclosed that in 2013 Respondent provided land surveying services and prepared and issued to its client, Kinder Morgan, a depth-of-cover survey map for approximately fifteen miles of a Kinder Morgan 16" Tennessee Gas pipeline located in Iberia Parish and Vermilion Parish, Louisiana.

La. R.S. 37:681 and 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), prohibit the practicing of and/or offering to practice land surveying 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. 37:681 and 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), 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. 37:700(A)(1) and (9), La. R.S. 37:700(H) and LAC Title 46:LXI§2301(B) were in effect at all times material hereto.

It is undisputed that Respondent has never been licensed to practice and/or offer to practice land surveying or engineering in Louisiana and that in 2013 Respondent practiced land surveying in Louisiana without proper licensure. Specifically, Respondent practiced land surveying in Louisiana by providing services which included a map as a deliverable along with a spreadsheet containing the following data: latitude, longitude, elevation of locations, and depth of cover. This constitutes mapping and topographical work as found in the definition of the practice of land surveying in La. R.S. 37:682(13)(a).

By letter dated October 9, 2014, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that it may have violated La. R.S. 37:681 and 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), relative to practicing and/or offering to practice land surveying 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 its own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to (a) pay a fine of eight hundred (\$800.00) dollars, (b) pay administrative costs of six hundred fifty two (\$652.00) dollars, (c) immediately cease and desist the preparation and issuance of depth-of-cover survey maps as defined in La. R.S. 37:682(13)(a) and otherwise the practicing of and/or offering to practice land surveying in Louisiana until such time as it is duly licensed by the Board or otherwise in compliance with the applicable Board laws and rules 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 understands that its conduct as set forth above constitutes violations of the above referenced laws and/or rules as stated herein according to the Board. 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 appeal; and it states affirmatively that it has been afforded all administrative remedies due it 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 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 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 eight hundred (\$800.00) 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 six hundred fifty two (\$652.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and
3. Respondent shall immediately cease and desist the preparation and issuance of depth-of-cover survey maps as defined in La. R.S. 37:682(13)(a) and otherwise the practicing and/or offering to practice land surveying in Louisiana until such time as it is duly licensed by the Board or otherwise in compliance with the applicable Board laws and rules; 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: June 1, 2015

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

KELLY'S INDUSTRIAL SERVICES, INC.,
Respondent

DATE: 3/18/15

BY: Kelly B. Kleinpeter
KELLY B. KLEINPETER, President

Witnesses to the signature of
Kelly's Industrial Services, Inc.

[Signature]
Print Name: LOUIS G. KLEINPETER

[Signature]
Print Name: HARRY COMEAU

Approved by:

[Signature]

John M. Madison, III
Wiener, Weiss & Madison
721 North Street
Baton Rouge, LA 70802
Telephone: (225) 930-4772

Attorneys for Kelly's Industrial Services, Inc.