

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. 2014-48
)	
THOMAS M. SMITH, 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 Thomas M. Smith, 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-21960. At all times material hereto, Kerwin E. Julien, Sr., P.E. was licensed in the State of Louisiana as a professional engineer, number PE-24944. At all times material hereto, Magan K. Kansagra, P.E. was licensed in the State of Louisiana as a professional engineer, number PE-20491.

An investigation was opened based upon the Board’s receipt of information and documents which suggested that Respondent may have committed violations of the Board’s laws and/or rules in connection with his practice of engineering in Louisiana. The investigation disclosed that on or about September 19, 2013 Respondent prepared and issued a completed engineering sketch (which he labeled as sketch “SK-1”) for truss member “splice connections” relating to the construction of a multi-purpose recreation building at Welcome Park in St. James Parish, Louisiana, however the sketch did not contain Respondent’s Louisiana professional engineer seal and signature.

The investigation also disclosed that in April 2008 Mr. Julien and Mr. Kansagra prepared, sealed, signed and issued to their client a set of engineering plans for the construction of the above referenced building. Additionally, the investigation disclosed that on or about February 10, 2015 Respondent prepared, sealed, signed and issued revisions to Mr. Julien’s and Ms. Kansagra’s original plans; however, Respondent failed to provide to Mr. Julien and Ms.

Kansagra written notice of Respondent's engagement immediately upon acceptance of the engagement and failed to include on the plans a notation describing the work done by Respondent.

Furthermore, the investigation disclosed that **(a)** the above referenced engineering plans issued by Mr. Julien and Ms. Kansagra were prepared by individuals who were not employed by Respondent and **(b)** Respondent did not exercise responsible charge over either their preparation of the plans or any other work performed by them in connection with the project.

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§2503(D), require that licensees who are engaged to complete, correct, revise or add to the engineering work of another licensee or other related design professionals (a) provide immediate written notice of their engagement to the other licensee or other related design professional and (b) include on the work a notation describing the work done by the licensee now in responsible charge. La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(a)(i), require licensees to affix their seal, sign their name, and place the date of execution on all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work. 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§2503(C) and (D), 2505(C), 2701(A)(3) and 2701(A)(4)(a)(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)(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)(a)(i) were in effect at all times material hereto.

It is undisputed that **(a)** in September 2013 Respondent prepared and issued a completed engineering sketch relating to the construction of a building in Louisiana which did not contain his Louisiana professional engineer seal and signature, **(b)** in April 2008 Mr. Julien and Ms. Kansagra prepared, sealed, signed and issued to their client a set of engineering plans for the construction of the above referenced building, **(c)** in February 2015 Respondent prepared, sealed, signed and issued revisions to Mr. Julien's and Ms. Kansagra's original plans; however,

Respondent failed to provide to Mr. Julien and Ms. Kansagra written notice of Respondent's engagement immediately upon acceptance of the engagement and failed to include on the plans a notation describing the work done by Respondent, **(d)** the plans issued by Mr. Julien and Ms. Kansagra were prepared by individuals who were not employed by Respondent and **(e)** Respondent did not exercise responsible charge over either their preparation of the plans or any other work performed by them in connection with the project.

By letter dated October 10, 2017, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that Respondent may have violated **(a)** 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, **(b)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2503(D), relative to licensees who are engaged to complete, correct, revise or add to the engineering work of another licensee or other related design professionals (i) providing immediate written notice of their engagement to the other licensee or other related design professional and (ii) including on the work a notation describing the work done by the licensee now in responsible charge, and **(c)** La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2701(A)(4)(a)(i), relative to sealing, signing and placing the date of execution on all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

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 five hundred and no/100 (\$1,500.00) dollars, **(b)** pay administrative costs of nine hundred eighty-five and 79/100 (\$985.79) 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 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 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, 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 that **(a)** he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, **(b)** 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)** 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 five hundred and no/100 (\$1,500.00) 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 nine hundred eighty-five and 79/100 (\$985.79) 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. 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: 13 November 2017

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

DATE: Oct. 31, 2017

Thomas M. Smith
THOMAS M. SMITH, P.E., Respondent

Witnesses to the signature of
Thomas M. Smith, P.E.

Richard H. Backus
Print Name: RICHARD H. BACKUS

Eric Huerta
Print Name: ERIC HUERTA