

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. 2016-27
)	
NATIONAL FOUNDATION)	Received
REPAIR, INC.)	
)	MAY 14 2018
RESPONDENT)	
)	
)	By LAPELS Enforcement

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 National Foundation Repair, 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 engineering firm and, therefore, was not authorized to practice and/or offer to practice engineering in the State of Louisiana. At all times material hereto, Kevin M. Bell was not licensed in the State of Louisiana as a professional engineer and, therefore, was not authorized to practice and/or offer to practice engineering in the State of Louisiana. At all times material hereto, Mr. Bell was an employee, a director and the President of Respondent.

An investigation was opened based upon the Board’s receipt of a document which suggested that Respondent may have engaged in the unlicensed practice of and/or offering to practice engineering in Louisiana. The investigation disclosed that on or about August 1, 2014 Mr. Bell (on behalf of and in the name of Respondent) prepared, signed and issued to their client a foundation inspection report relating to property located at 1705 Henry St., Pineville, Louisiana. The foundation inspection report contained opinions and observations which required engineering judgment and analysis, as well as the application of engineering principles and the interpretation of engineering data, including but not limited to the following:

- a. “If these efforts fail, or if the degree of differential movement warrants, remedial measures can also be employed under most cases to extend the depth of the foundation into more stable soil, less affected by conditions near the surface. This design change encourages better

future performance by encouraging more even (as opposed to uneven) settlement patterns.”

b. “Fortunately, because of the soil’s limited ability to swell (depending on the degree of its plasticity), movements caused by upheaval under these conditions can also be limited.”

c. “Even if a structure is suffering from a considerable degree of differential settlement, its foundation will not develop large deflected type slab cracks or lose its monolithic condition if it is effectively reinforced.”

d. “...*reinforcement failure* is generally 100% preventable at the time of construction with the proper use of effective reinforcing materials and techniques.”

e. “It is not to be construed as a full ‘structural report’ since only those items pertaining to the past performance of the foundation system of the structure were examined.”

La. R.S. 37:681 and La. R.S. 37:700(A)(1) and (9), *to wit* LAC Title 46:LXI§2301(B), prohibit the practicing of and/or offering to practice engineering without proper licensure. La. R.S. 37:700(C) permits the Board to take enforcement action against a firm if one or more of its officers, directors, managers, employees, agents or representatives is found by the Board to be guilty of any of the acts or offenses listed in La. R.S. 37:700(A). La. R.S. 37:700(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:681 and La. R.S. 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(C), 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 (a) Respondent has never been licensed in Louisiana as a professional engineering firm and, therefore, has never been authorized to practice and/or offer to practice engineering in Louisiana, (b) Mr. Bell has never been licensed in Louisiana as a professional engineer and, therefore, has never been authorized to practice and/or offer to practice engineering in Louisiana, (c) at all times material hereto Mr. Bell was an employee, a director and the President of Respondent and (d) on or about August 1, 2014 Respondent and Mr. Bell (on behalf of and in the name of Respondent) practiced and/or offered to practice engineering in Louisiana without proper licensure.

Notwithstanding any language contained in this Consent Order, the Board acknowledges that this Consent Order in no way reflects on Respondent's competency, or Respondent's ability to repair foundation failures.

By letter dated May 23, 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 La. R.S. 37:681, La. R.S. 37:700(A)(1) and (9), La. R.S. 37:700(C) and LAC Title 46:LXI§2301(B), relative to practicing and/or offering to practice engineering 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 one thousand five hundred and no/100 (\$1,500.00) dollars, (b) pay administrative costs of eight hundred ninety six and 55/100 (\$896.55) dollars, (c) immediately cease and desist practicing and/or offering to practice engineering in Louisiana until such time as it is duly licensed by the Board 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 denies that its conduct as set forth above constitutes violations of the above referenced laws and/or rules as stated herein. However, Respondent agrees to enter into this Consent Order for the purpose of avoiding further action by the Board and bringing this matter to an amicable close. 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 be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and present witnesses and evidence in its own behalf, it hereby waives this right and 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 that (a) it fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) it has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with it 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 eight hundred ninety six and 55/100 (\$896.55) 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 practicing and/or offering to practice engineering in Louisiana until such time as it is duly licensed by the Board; 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 18, 2018

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

NATIONAL FOUNDATION REPAIR, INC.,
Respondent

DATE: 5/11/18

BY: Kevin M. Bell
KEVIN M. BELL, President

Witnesses to the signature of
National Foundation Repair, Inc.

Gloria Richard
Print Name: Gloria Richard

Jenny Bcastille
Print Name: Jenny Bcastille

Approved by:

Ian A. Macdonald

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Attorneys for National Foundation Repair, Inc.