

**STATE OF ALABAMA BOARD OF LICENSURE  
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**IN THE MATTER OF:** )  
 )  
 )  
Mr. Barry Goldsher, CEO )  
ClearSpan Fabric Structures )  
1440 Field of Dreams )  
Dyersville, IA 52040 )  
 )  
 )  
**Respondent** )  
\_\_\_\_\_ )



Case No. 2015-39-C

**CONSENT ORDER**

Barry Goldsher, CEO of ClearSpan Fabric Structures (hereinafter referred to as “Respondent”) hereby stipulates and agrees, subject to approval of the Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the “Board”) as follows:

**STIPULATED FACTS**

Respondent stipulates on June 18, 2015 the Board initiated a complaint in reference to ClearSpan, Fabric Structures possibly violating Title 34 of the Code of Alabama. The complaint indicated the company produced a catalog that contains language that indicates the firm offers to provide engineered solutions for building requirements, provides engineering services to meet any wind and snow load requirements, and upon request will provide engineered drawings.

Respondent stipulates the engineering staff of ClearSpan Fabric Structures does not include an Alabama licensed professional engineer, and the firm has not been issued a certificate of authorization for engineering by the Board authorizing it to offer and/or provide engineering services in the State of Alabama.

Respondent stipulates ClearSpan Fabric Structures maintains an internet website that contains the following language:

## **“In-House Engineering To Withstand Any Region**

Once your fabric structure’s specifications have been approved to meet your needs and budget, the Engineering Team takes over. Combining their extensive industry experience with the most updated Computer-Aided Design software, they turn your structure’s customizations and building requirements into a cohesive plan for our Manufacturing and Truss Building Teams. Depending on your local wind and snow-load requirements and other building code factors, the Engineering Team determines the necessary amount of steel trusses and required spacing to create organized building design for review and approval. Pending international building codes, state, and local law regulations, our engineers will work with a contracted independent engineering firm that will supervise the engineering and design-build process, so that stamped drawings and necessary permits can be obtained quickly and efficiently. From these designs, approved instructions are created to manufacture your solution.”

Respondent stipulates ClearSpan Fabric Structures produced a catalog style advertisement that was distributed in the state of Alabama that includes the following language under the heading One Stop Shop: “With decades of experience we've been able to fine tune our customer service, and our highly trained staff provides service that exceeds the customers' needs. This all starts with our Truss Arch Specialists. These specialists have years of industry experience and are qualified to help identify your needs and goals. Upon contacting ClearSpan, a Truss Arch Specialist will act as your liaison through the purchasing process and make sure that your needs are met. After working out the details with our Truss Arch Specialists, ClearSpan's skilled engineers transform your specifications into a cohesive plan. Our engineers use sophisticated design software to create the perfect frame, which is then adjusted to fit your region's building codes. Careful engineering allows ClearSpan™ structures to meet any wind- and snow-load requirements, and upon request we can provide stamped engineered drawings for your records

Respondent stipulates the catalog style advertisement also contained language that stated:

“Engineers

“ClearSpan employs an experienced, innovative team of in-house engineers. Our engineers design solely for us on a fulltime basis to ensure that the accuracy of our structures is not compromised. ClearSpan engineers specialize in the calculations necessary for the building regulations of our Hercules Truss Arch Buildings. With the help of Computer Assisted Design (CAD), meeting local snowload and windload requirements is clearcut for our engineers. They can provide engineered stamped drawings, if required, and follow all international building codes when designing our fabric structures. Our skilled and intelligent engineers promise complete satisfaction on the quality and structural integrity of our Hercules Truss Arch Buildings.”

#### **STIPULATED CONCLUSIONS OF LAW**

Respondent admits he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11 and the jurisdiction of the Board.

Respondent stipulates his conduct as set forth in the foregoing “Stipulated Facts” constitutes violations of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-9(a)(1) and § 34-11-16(a)(1).

Respondent stipulates his conduct as set forth in the “Stipulated Facts” is a violation of those statutes set forth above, and it is subject to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

#### **STIPULATED DISPOSITION**

Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975.

Respondent understands this Consent Order and subsequent Final Order will be a public record.

Respondent will **CEASE and DESIST** the practice or the offer to practice of engineering services in the state of Alabama.

Respondent shall submit to the Board with this signed Consent Order a certified check made payable to PE/PLS Fund in the amount of two hundred and fifty-seven dollars (\$257.00) for the cost of the investigation.

Respondent shall submit to the Board with this signed Consent Order a civil penalty in the amount of twelve hundred and forty-three dollars (\$1243.00) via a certified check made payable to the State of Alabama General Fund.

Respondent understands this Consent Order is subject to the approval of the Board and has no force and effect until a Final Order based upon it is rendered by the Board.

Respondent agrees to comply with the terms of this Consent Order and understands failure to comply with the terms of the Consent Order may result in additional charges or discipline.

Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board Members, Board Staff and Board Counsel. Respondent understands that this discussion will take place at a regularly scheduled meeting of the Board.

Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision in said formal hearing but expressly waives these rights with execution of this Consent Order and Final Order of the Board.

Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the

stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order of the Board incorporating said Consent Order.

Respondent, for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. It is agreed that presentation to and consideration of the Consent Order by the Board requires certain factual information related to this matter be disclosed to the Board members. Should the Consent Order not be accepted by the Board, it is therefore expressly agreed that the reviewing, and consideration of this Consent Order, and the information provided to the Board for their review, shall not unfairly prejudice the Board and shall in no way act to disqualify any Board member from any further participation in this matter through its resolution, including, but not limited to, any contested hearing on this matter should one be necessary. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

SIGNED this the 13<sup>th</sup> day of January, 2016

  
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Barry Goldsher  
ClearSpan Fabric Structures

APPROVED:

  
\_\_\_\_\_  
Benjamin H. Albritton  
Assistant Attorney General

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**FINAL ORDER**

The Alabama Board of Licensure for Professional Engineers and Land Surveyors having considered the consent order signed by Barry Goldsher of ClearSpan Fabric Structures, in which he stipulated the firm violated, § 34-11-9(a)(1), and § 34-11-16(a)(1), of the Code of Alabama hereby adopts the Consent Order and issues this Final Order.

The Consent Order and Final Order take immediate effect upon the signing of this Final Order and the Respondent is **ORDERED** to abide by the Consent Order and Final Order as approved by the Alabama Board of Licensure for Professional Engineers and Land Surveyors.

**ENTERED** this the 9th day of February 2016

**RECUSED**

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Marc S. Barter

*Elisabeth Hyde*  
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Elisabeth Hyde

*Richard G. Grace*  
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Richard G. Grace

*Randall D. Whorton*  
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Randall D. Whorton

*Frazier Christy*  
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Frazier Christy

*Charles P. Willis*  
\_\_\_\_\_  
Charles P. Willis

*Nathan G. Johnson*  
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Nathan G. Johnson