

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

**IN RE THE MATTER OF:**

**FRANK HARRY GARCIA**

**Case No. 2011-23-B**

**CONSENT ORDER**

Mr. Frank Harry Garcia, an Alabama licensed professional engineer (hereinafter referred to as "Respondent") hereby stipulates and agrees, subject to approval of the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the "Board") as follows:

**STIPULATED FACTS**

Respondent stipulates he received Alabama professional engineer license (# 19846) issued by the Board on February 7, 1994 and has held that license continuously since that date.

Respondent stipulates on March 19, 2011, the Board received a complaint alleging he prepared the design of an HVAC system for the Grand Lodge F. & A.M. of Alabama project located in Millbrook, Alabama which contained errors and failed to meet the required design specifications.

Respondent stipulates he served as the consulting mechanical HVAC design engineer and prepared the HVAC design drawings for the Grand Lodge F. & A.M. of Alabama project located in Millbrook, Alabama. Respondent further stipulates the design drawings he prepared were reviewed by a licensed professional engineer serving as a Board Technical Advisor who provided a report that stated; "During my initial review of the packet, it appeared that the project was handled in a very professional way with contractual arrangements with the Owner, thorough

specifications, drawings, and back up load data. However, after a closer review of the drawings and loads, there appeared to be some issues that are concerning.” These items included control and comfort issues.

#### STIPULATED CONCLUSIONS OF LAW

Respondent agrees 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 the charges as set forth in the foregoing “Stipulated Facts” constitutes violations of Title 34 Chapter 11 Code of Alabama 1975 Section 34-11-11(a)2 and the Rules and Regulations of the Board’s *Administrative Code* § 330-X-14-.05 (g) and § 330-X-14-.06(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

1. Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975, or the Rules and Regulations of the Administrative Code and the Rules of Professional Conduct promulgated together.

2. Respondent understands this Consent Order and subsequent Final Order will become a matter of public record.

3. Respondent agrees he shall pay the Board a fine of one thousand five hundred dollars (\$1,500.00) within thirty (30) days of date of Final Order. Respondent further agrees failure to submit payment of the specified penalty within six months of date of Final Order shall cause his license to practice engineering in the State of Alabama to be revoked (pending ratification of the Board). The matter would be presented to the Board for ratification at its next regularly scheduled meeting.

4. Respondent understands his license to practice engineering in the State of Alabama shall be subject to six (6) months **probation** commencing immediately upon the date of the Final Order.

5 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.

6. Respondent agrees any violation of the terms of this Consent Order may result in the Board filing additional charges in accordance with Title 34, Chapter 11, Code of Alabama, 1975.

7. 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 in Montgomery Alabama. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

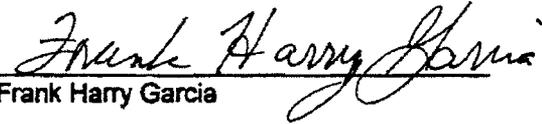
8. Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against it, and to obtain judicial review of the Board's decision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

9. 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.

10. Respondent, for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation

in or resolution of these proceedings. 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 27 day of September, 2011

  
Frank Harry Garcia

APPROVED:

  
Benjamin H. Albritton  
Assistant Attorney General

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FINAL ORDER

On October 12-13, 2011, the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled meeting. The Board Members in attendance at the meeting were: Mr. W. Gerald Wilbanks, Mr. C. Michael Arnold, Dr. Daniel S. Turner, Mr. Phillip E. Santora, Mr. Earl R. Foust, and Mr. Don T. Arkle.

This Final Order is based upon a Consent Order signed by Frank Harry Garcia (hereafter referred to as Respondent) and dated September 27, 2011. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a) (2) and the Rules of Professional Conduct of the *Administrative Code* § 330-X-14-.05(g) and § 330-X-14-.06(a)(1).

Upon Consideration of the above it is **ORDERED** that the Consent Order dated September 27, 2011 is adopted by the Board and hereby made a part of this Final Order. It is further **ORDERED** that Respondent abide by the Final Order in this manner.

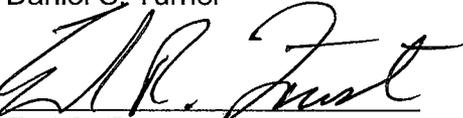
**ENTERED** this the 12th day of October, 2011



W. Gerald Wilbanks



Daniel S. Turner



Earl R. Foust

**RECUSED**

C. Michael Arnold



Phillip E. Santora



Don T. Arkle

**DID NOT ATTEND**

William C. Ulrich, Jr