

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

IN RE THE MATTER OF:

THOMAS MARTINEZ

Case No. 10-24-B

CONSENT ORDER

Mr. Thomas Martinez, (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 was issued a license (# 21239) to practice engineering in the State of Alabama on July 8, 1996 and has held that license continuously until April 6, 2010 when it was placed into "lapsed" status.

Respondent stipulates he submitted a check (#225) dated December 30, 2009 in the amount of forty dollars (\$40.00) made payable to the Alabama Board of Licensure for Professional Engineers and Land Surveyors for renewal of his 2010 professional engineers license fee which was dishonored.

Respondent stipulates that notification of the dishonored check was sent via certified mail on February 3, 2010 by Ms. Shawndala Harrison, Board Staff requesting tender of payment of the dishonored check (\$40.00) plus a service charge of thirty dollars (\$30.00) for a total of seventy dollars (\$70.00) within ten days. Respondent failed to respond.

Respondent stipulates on April 7, 2010, a complaint was initiated by Ms. Regina Dinger, Executive Director of the Alabama Board of Licensure for Professional Engineers and Land Surveyors in reference to Respondent providing a check (# 225) to the Board dated December

30, 2009 in the amount of forty (\$40.00) dollars for payment of his 2010 license renewal fee which was dishonored.

Respondent stipulates on February 7, 2010 a letter was sent via regular and certified mail to Respondent's last known address on file with the Board notifying him of the complaint and that as of April 6, 2010 his professional engineer license renewal application was invalidated and no longer in good standing. Respondent was also asked to respond in writing by April 23, 2010.

Respondent stipulates he contacted Mr. Robert Herbert, Board Investigator via email on May 17, 2010 and advised he had been working in South America since October 2009 and had inadvertently written a check for his 2010 license renewal from an account that did not have sufficient funds. Respondent also indicated to Investigator Herbert that after a telephone conversation with someone in the Board office, he understood that he should disregard the correspondence received by him from the Board.

Respondent stipulates he was contacted on June 9, 2010 by Investigator Herbert of the Board who advised him to contact Ms. Shawndala Harrison, Board Staff and submit the seventy dollars (\$70.00) as requested by the Board. As of June 25, 2010 Respondent has failed to respond.

STIPULATED CONCLUSIONS OF LAW

Respondent, in his capacity as a licensed Alabama professional engineer stipulates in such capacity he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11, and the Rules of Regulations of the *Administrative Code* of this Board.

Respondent stipulates his conduct as set forth in the foregoing "Stipulated Facts" constitutes violations of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)(2) and the Boards *Administrative Code* § 330-X-4-.07(2), and § 330-X-14-.06(a) (1, 5 & 7).

Respondent stipulates his conduct set forth in the "Stipulated Facts" is a violation of those rules and statutes set forth above, and that he 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 a fine of \$250.00 (two hundred and fifty dollars) to the Board within thirty (30) days of date of Final Order.

4. Respondent agrees his professional engineering license shall not be returned to active status until such time as payment of the dishonored check and a service charge of thirty dollars (\$30.00) for a total of seventy dollars (\$70.00) is received by the Board.

5. Respondent understands his Alabama professional engineer license is subject to six (6) months **probation** commencing immediately upon the date of the final order.

6. 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.

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

8. 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 the Board's regularly

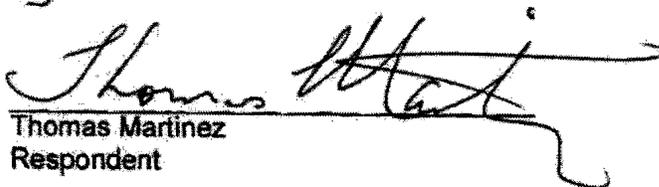
scheduled meeting on July 14-16, 2010 in Montgomery Alabama. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

9. 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.

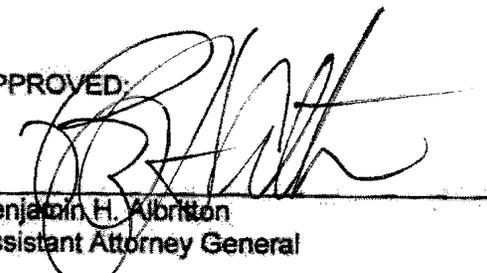
10. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order of the Board incorporating said Consent Order.

11. 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 21st day of July, 2010


Thomas Martinez
Respondent

APPROVED:


Benjamin H. Writton
Assistant Attorney General

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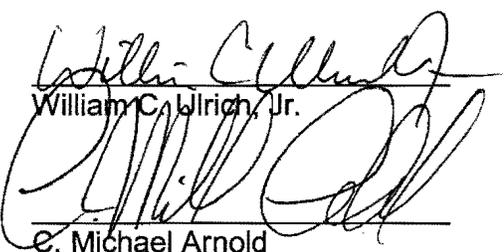
FINAL ORDER

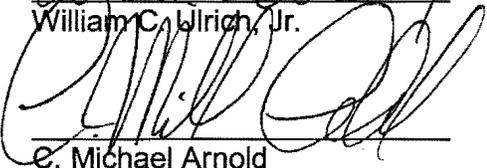
On September 16, 2010, the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled Board meeting. The Board Members in attendance at the meeting were: Mr. William C. Ulrich, Jr., Mr. Don T. Arkle, Mr. C. Michael Arnold, Mr. W. Gerald Wilbanks, Dr. Daniel S. Turner, Mr. Phillip E. Santora and Mr. Earl R. Foust. Mr. Benjamin Albritton, Assistant Attorney General, appeared as counsel for the Board.

This Final Order is based upon a Consent Order signed by Mr. Thomas Martinez, (hereafter referred to as Respondent) and dated July 21, 2010. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a)(2) and the Board's *Administrative Code* § 330-X-4-.07(2) and § 330-X-14-.06(a) (1, 5 & 7).

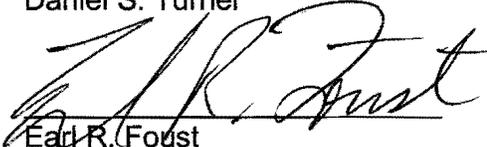
Upon Consideration of the above it is **ORDERED** that the Consent Order dated July 21, 2010 is adopted by the Board and hereby made a part of this Final Order. It is further **ORDERED** that Respondent abide by the Final Order in this manner.

ENTERED this the 16th day of September, 2010


William C. Ulrich, Jr.


C. Michael Arnold


Daniel S. Turner


Earl R. Foust


Don T. Arkle


W. Gerald Wilbanks

RECUSED

Phillip E. Santora