

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE
JOHN O. PASTORE CENTER
CRANSTON, RI 02920

IN THE MATTER OF :
:
BRIAN THALMANN, AND : DBR No. 10-BDP/PE-009
THALMANN ENGINEERING:
CO., INC. :
:
RESPONDENTS :
_____ :

CONSENT AGREEMENT

The Department of Business Regulation (“Department”) and Brian Thalmann (“Respondent Thalmann”) and Thalmann Engineering (“Respondent TE”) hereby agree that:

1. On July 9, 2007, a complaint was filed by Joseph Guittari against Respondents TE and Thalmann, alleging a failure to provide services previously paid for and related unprofessional conduct.
2. Respondent TE has a certificate of authorization pursuant to R.I. Gen. Laws § 5-8-24.
3. Respondent Thalmann is licensed as a professional engineer pursuant to R.I. Gen. Laws § 5-8-3.
4. Upon review of the Complaint, the Board of Professional Engineers (“Board”), a division within the Department, found probable cause to support a violation of statutory and regulatory requirements, and proceeded to investigate the matter further.

Th. P. Th.
11 MAY 2010

5. On October 31, 2008, Respondents entered into a Consent Order and agreed to the following conditions in lieu of invoking their right to have the matter heard in a full, evidentiary administrative hearing as a contested case:

A. Respondent Thalmann was required to enroll in a 20-hour internet course of study entitled, "Basic Studies in Engineering Ethics" offered by Texas Tech University and was to have completed the course on or before December 15, 2008, unless a later date was agreed to by the Board.

B. Respondents TE and Thalmann would not in the future engage in the conduct alleged, "improper, unprofessional conduct, and failure to perform client services," which may constitute a violation of R.I. Gen. Laws § 5-8-18.

C. Respondents TE and Thalmann were required to comply with the terms of the Settlement Agreement recently reached with complainant Joseph Guittari, which was to be filed with the Board for its files.

D. The Board would not censure, reprimand, nor take any other action against Respondents, as long as Respondent Thalmann complied with the terms and conditions of the Consent Order and the Settlement Agreement with Mr. Guittari. Upon receipt of a certification that he has complied with all of the conditions set forth in the Consent Order, and a release of claims by Joseph Guittari and/or Regional Financing, LLC, or JTWO, LLC, the Board would close the complaint.

6. Respondents voluntarily waived their right to the hearing process, voluntarily waived the right to appeal to Superior Court, admitted sufficient facts to sustain the violations, and agreed to take all necessary action to maintain their licenses in good-standing.

Tom P. Guittari
11 MAY 2010

7. Respondents also agreed that if they failed to abide by any of the requirements of the October 31, 2008 Consent Order, or if there was another complaint filed that the Board determined to be meritorious, within the one-year beginning July 1, 2008, the Department would initiate administrative proceedings to impose penalties against Respondents' License certification including, but not limited to: i) suspension, ii) revocation, and/or iii) such additional administrative penalties as deemed appropriate by the Department.

8. Despite several extensions granted by the Board, seventeen months have elapsed and, as of this date, Respondent Thalmann has still not completed the required course described in Section 5 A herein.

9. Since the October 31, 2008 Order, another complaint has been filed against Respondent, alleging failure to complete work after payment was made.

10. On February 8, 2010, an Order to Show Cause Why License Should Not Be Revoked, Suspended or Administrative Penalty Imposed was issued against Respondents.

11. A pre-hearing status conference was held on March 16, 2010, wherein the following conditions were agreed to by Respondent and the Board:

A. If Respondent completes the course described in section 5 A herein by June 11, 2010, he will thereafter be subject to a six (6) month suspension.

B. If the course is not completed by August 1, 2010, Respondent will thereafter receive a one-year suspension.

C. If Respondent fails to complete the course by October 1, 2010, all registrations will be revoked.

Tom P. [unclear]
11 MAY 2010

D. Respondent will authorize Texas Tech University to release information to the Board as to whether he has completed the mandated course described in Section 5 A herein.

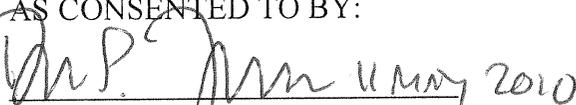
E. Respondent, at his expense, will be the subject of a newspaper advertisement in the Providence Journal, to be placed by the Board as a result of any sanctions as described in Sections 11 A, 11 B, or 11 C herein.

F. Respondent understands that before executing this Agreement, he has a right to counsel. Further, if this Agreement is not executed by May 11, 2010, the administrative hearing process will continue.

12. Finally, a second complaint was recently filed against Respondent. If such complaint is not resolved by October 1, 2010, the sanction referred to in Section 11C will also apply.

13. **IN WITNESS WHEREOF**, Consent Agreement has been executed in duplicate by the parties on the 11th day of May, 2010.

AS CONSENTED TO BY:


Brian Thalman
47 Kenwood Street
Warwick, RI 02889


L. Robert Smith
Chairman of the Board

14. ATTORNEY THOMAS DEFRONZO WAS RETAINED TODAY BY RESPONDENT AND APPEARED WITH RESPONDENT.


11 May 2010

CERTIFICATION

I hereby certify that on the 11th day of March, 2010, a copy of the within Consent Agreement was hand delivered to:

Brian Thalmann
47 Kenwood Street
Warwick, RI 02889

Richard W. Bernstein, Esq., Executive Counsel
L. Robert Smith
Lois Marshall

*Th. P. M. W.
11 May 2010*