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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA ENGINEERS	)	
MANAGEMENT CORPORATION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 03-0204PL
	)	
JOHN F. SHEILS, P.E.,	)	
	)	
Respondent.	)	
_____	)	

ORDER DENYING RESPONDENT'S MOTION TO DISMISS
AND AMENDED ORDER ON MOTION FOR SUMMARY JUDGMENT

On February 14, 2003, Respondent filed two motions, a Motion for Summary Judgment and a Motion to Dismiss the Petition. An Order on the Motion for Summary Judgment was entered March 19, 2003. In that Order, it was indicated that the Motion to Dismiss would be granted by a separate recommended order. After further consideration, however, it is concluded that the Motion to Dismiss must be denied.

First, Respondent has requested dismissal of this matter, an act with this forum does not have authority to grant; only the agency with final order authority may dismiss this matter. All that this forum may do is to recommend dismissal if the circumstances of this case warrant such a recommendation, which they do not.

More importantly, Respondent's argument concerning the role of the Florida Engineers Management Corporation's (hereinafter referred to as the "Management Corporation") role in this case is not persuasive. Respondent argues that the Management Corporation may not provide "prosecutorial services" because it is "practicing law" an action which it has no authority to do under the Florida Constitution. This forum has no authority to reach such an issue, because it constitutional issues which this forum has no jurisdiction to hear.

In light of the fact that the Motion to Dismiss will be denied, the determination of whether Respondent's affidavit supports a conclusion that this matter should be dismissed because there are no issues of material fact and Respondent's Motion for Summary Judgment will be made. Petitioner will be given an opportunity to file an affidavit in opposition to Respondent's affidavit or a response explaining why the "facts" of the affidavit do not eliminate the issues of fact in this case.

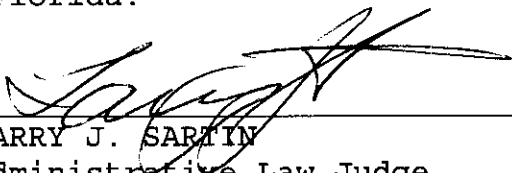
Accordingly, it is

ORDERED:

1. Respondent's Motion to Dismiss is DENIED; and
2. The Order on Motion for Summary Judgment is amended to the extent that it indicates that a recommended order of dismissal will be entered. It is also amended to the extent

that the Order concludes that no determination of whether material issues of fact exists in light of Respondent's affidavit. Petitioner may file an affidavit in opposition to Respondent's affidavit or a response explaining why the "facts" of the affidavit do not eliminate the issues of fact in this case on or before March 28, 2003.

DONE AND ORDERED this 20th day of March, 2003, in Tallahassee, Leon County, Florida.



LARRY J. MARTIN
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of March, 2003.

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