

**BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS**

**IN RE: ARRO Consulting, Inc.  
Richard D. Parks, P.E.  
Joseph W. Moss, P.E.**

**C-2006-08**

**CONSENT ORDER**

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president (hereinafter "the Board"), and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia, for the purpose of agreeing to disciplinary action which shall be taken against ARRO Consulting, Inc., Richard D. Parks, P.E., and Joseph W. Moss, P.E. As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter, and the Board, upon approval of such agreement, does hereby **FIND** the following:

1. The Board is a State entity created by West Virginia Code §30-13-1 *et seq.* and is empowered to regulate the practice of engineering pursuant to West Virginia Code §30-13-1 *et seq.*
2. Respondent ARRO Consulting, Inc. [hereinafter at times referred to as "Respondent firm" or "Respondent ARRO"] is an engineering consulting firm organized under the laws of the State of Pennsylvania and doing business in the State of West Virginia under COA # C00714-00.
3. Respondent Richard D. Parks [hereinafter at times referred to as "Respondent Parks"], an owner and Senior Vice President of ARRO Consulting, holds W. Va. PE license # 010759 and is listed as ARRO's engineer in responsible charge on ARRO's West Virginia COA.
4. Respondent Joseph W. Moss is an Assistant Vice-President of ARRO Consulting, Inc., and is a professional engineer in the State of Maryland but has not yet been issued his license in the State of West Virginia.
5. This complaint was initiated by the Board on March 22, 2006, and was served

upon Respondents by certified mail.

6. This complaint alleged that Respondent firm and Respondent Parks aided and abetted the unlicensed practice of engineering by requiring and facilitating Respondent Moss' practice of engineering in West Virginia.
7. The primary basis for the complaint was Respondent Moss' representation of the firm at meetings of the Morgan County Planning Commission (MCPC) pursuant to a contract for engineering services entered into in December 2004 and signed by Respondent Parks on behalf of Respondent ARRO, at which meetings Respondent Moss at times represented himself as an engineer.
8. Respondent Moss also on numerous occasions was Respondent firm's signatory to correspondence to its client, MCPC, and signed same as a P.E.
9. Respondent Moss was listed as the "project manager" and "client contact" on Respondent firm's invoice for professional services.
10. With respect to paragraphs 7 and 8 above, there is no indicia in the record that the public was made aware that Respondent Moss did not hold an engineering license in the State of West Virginia, although information provided by MCPC indicates it was aware or at some point became aware of this fact.
11. Respondent Moss admits he provided engineering opinions to MCPC and did other engineering work in West Virginia which was not under the direct supervision of and verified by Respondent Parks or another engineer licensed in West Virginia.
12. Respondent Moss admits he made representations to MCPC that his work was under the direct supervision of and verified by an engineer licensed in West Virginia.
13. Respondent Moss applied for West Virginia licensure on January 5, 2006, which application has been held in abeyance pending the resolution of this Complaint.
14. Respondent Moss represents that his only engineering work in the State of West Virginia has been for MCPC and that, since this Complaint was

- instituted, he has been diligent and cautious in limiting his work on the MCPC contract on behalf of ARRO to those duties allowed of employees under West Virginia engineering law, which representations the Board accepts as true.
15. Respondent Parks admits he was aware Respondent Moss represented Respondent firm at MCPC meetings and was connected with the work for MCPC in other ways which made it unclear that Respondent Moss was not licensed in West Virginia.
  16. Respondent Parks admits he was aware or should have been aware that Respondent Moss provided engineering opinions to MCPC independent of any involvement by Respondent Parks or any other licensed engineer working on behalf of Respondent ARRO.
  17. Respondent Parks admits he knew or should have known that all of Respondent Moss' work was not under the direct supervision of and verified by an engineer licensed in West Virginia.
  18. Respondent Parks admits these actions reasonably constitute aiding and abetting the unlicensed practice of engineering in West Virginia under the regulations promulgated for the purpose of regulating the practice of engineering in West Virginia.
  19. Respondent Parks represents that, since this Complaint was instituted, he has been diligent and cautious in assuring that Respondent firm's work on the MCPC contract has been done or supervised by himself, as he is currently the only engineer working for Respondent firm who is licensed in the State of West Virginia.
  20. Constance M. Dougher, an owner, Senior Vice-President and Counsel of Respondent firm, serves as the representative of and signatory to this Consent Order on behalf of Respondent firm.
  21. Respondent firm admits it did not take all steps reasonable and necessary to assure its engineering work in West Virginia was being performed by engineers licensed in West Virginia or under the direct supervision of and verified by an engineer licensed in West Virginia.
  22. Respondent firm admits these actions reasonably constitute aiding and

abetting the unlicensed practice of engineering in West Virginia under the regulations promulgated for the purpose of regulating the practice of engineering in West Virginia.

23. Respondent firm represents that, since this Complaint was instituted, it has been diligent and cautious in assuring that ARRO's work in West Virginia has been performed in conformity with West Virginia engineering law, which representation the Board accepts as true and relies on same in entering into this Consent Order.
24. Respondent firm represents that no revenue was realized from work performed in West Virginia between 2000 and 2004 and that all engineering work performed in 2004, 2005 and 2006 was performed in accordance with West Virginia engineering law but for the work performed for the MCPC, which representation the Board accepts as true and relies on same in entering into this Consent Order.
25. Constance M. Dougher, as in-house Counsel for Respondent firm, has negotiated this joint Consent Order on behalf of respondents with regard to this Complaint.
26. While no formal response was filed on behalf of any respondent, Ms. Dougher, by letter dated May 4, 2006, provided information requested by the Board regarding revenue generated in West Virginia since 2000 and verbally provided other information which has been relied upon by the Board in entering into this Consent Order.
27. The Board considers the following factors in mitigation of Respondents' unlicensed practice of engineering in West Virginia, or aiding and abetting same:
  - a. Respondent Moss applied for West Virginia licensure prior to knowledge of the investigation leading up to the filing of this Board complaint;
  - b. Respondents' client, MCPC, was aware that Respondent Moss was not licensed in the State of West Virginia;
  - c. Respondents' violation of West Virginia engineering law was

unintentional; and

- d. Respondents cooperated with this Board in providing information both prior to and after the filing of this complaint, admitting the allegations in the Complaint and agreeing to settle same.
- 28. Based on information provided by Respondent firm, ARRO received and continues to receive substantial remuneration from MCPC.
  - 29. Since the Board may consider the economic benefits gained by the violator as a result of noncompliance in determining the amount of civil penalty to be assessed, the Board finds the economic benefit realized by ARRO justifies a substantial civil penalty.
  - 30. Respondent has waived its right to a hearing on this matter and other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board.
  - 31. The Board incurred only minimal expenses with regard to this Complaint and, therefore, finds it appropriate to enter into this Consent Order without the imposition of costs.

### **CONCLUSIONS OF LAW**

- 32. West Virginia Code §30-13-2 provides: "It is unlawful for any person to practice or offer to practice engineering in this state ... or to use in connection with his or her name or otherwise assume or advertise any title or description tending to convey the impression that he or she is a registered or licensed engineer, unless the person has been duly registered or exempted under the provisions of this article."
- 33. West Virginia Code §30-13-24 exempts the following from the above licensure requirement: "The work of an employee ... Provided, that the work does not include final engineering designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of registration under the article or a person practicing lawfully."
- 34. As admitted by Respondents, Respondent Moss' work was not done in a

manner what would fall within the exemption set forth in West Virginia Code §30-13-24.

35. West Virginia Code §30-13-21(a) allows the Board to “refuse to issue ... a certificate of registration of ... any professional engineer ...” which necessarily extends authority to the Board to refuse to issue a certificate of registration to an applicant, such as Respondent Moss.
36. The Board also has jurisdiction over Respondent Moss pursuant to West Virginia Code §30-13-21(b) which authorizes the Board to “assess civil penalties against any person who violates any provision of this article or any rule promulgated by the board for each offense in an amount determined by the board.”
37. West Virginia Code §30-13-21(a)(8) authorizes this Board to take disciplinary action against any person who aids or assists another person in violating any provision of West Virginia engineering law.
38. West Virginia Code §30-13-21(d) extends the power of the Board to take disciplinary action to a holder of a certificate of authorization.
39. Among its other powers, the Board has the power to assess civil penalties and related costs for each count or separate offense in an amount set by the Board. W. Va. Code §30-13-21(d)(4).
40. Practicing engineering without a license is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 C.S.R. 1.15.1.
41. The penalty for aiding and abetting any violation cannot be more than the maximum penalty prescribed for the violation. 7 C.S.R. 1.15.2.
42. Each day of continued violation may constitute a separate offense. 7 C.S.R. 1.15.3.
43. The Board may consider several factors in determining the amount of the civil penalty. 7 C.S.R. 1.15.4.

### **CONSENT OF JOSEPH W. MOSS**

Joseph W. Moss, by affixing his signature hereon, agrees to or acknowledges the following:

44. Respondent Moss is aware of his right to be represented by counsel, but chose to have ARRO's in-house counsel negotiate this joint settlement on his behalf, together with the other respondents.
45. Respondent Moss is aware of his right to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.
46. Respondent Moss intelligently and voluntarily waives his right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
47. Respondent Moss agrees to accept this informal settlement of Complaint 2006-08.
48. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
49. Respondent acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate.
50. Respondent acknowledges that proof of any misstatement or misrepresentation made by him or by others with his knowledge with regard to this Complaint, his application for licensure, or any document or statement relied upon in the entering of this Consent Order will result in the rescission of this agreement, the non-issuance or summary revocation of his license to practice engineering in West Virginia, the reinstatement of the Complaint, and/or the addition of any other charges which may ensue from providing false information to the Board in violation of West Virginia engineering law.

### **CONSENT OF RICHARD D. PARKS, P.E.**

Richard D. Parks, P.E. and Senior Vice President of ARRO Consulting, Inc., by affixing his signature hereon, agrees to or acknowledges the following:

51. Respondent Parks is aware of his right to be represented by counsel, but chose to have ARRO's in-house counsel negotiate this joint settlement on his behalf, together with the other Respondents.
52. Respondent Parks is aware of his right to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.
53. Respondent Parks intelligently and voluntarily waives his right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
54. Respondent Parks agrees to accept this informal settlement of Complaint 2006-08.
55. Respondent Parks consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
56. Respondent Parks acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate.
57. Respondent Parks acknowledges that proof of any misstatement or misrepresentation made by him or by others with his knowledge with regard to this Complaint or any document or statement relied upon in the entering of this Consent Order will result in the rescission of this agreement, the summary revocation of his West Virginia professional engineering license, the reinstatement of the Complaint, and the addition of any other charges which may ensue from providing false information to the Board in violation of West Virginia engineering law.
58. Respondent Parks acknowledges and understands his responsibilities as the engineer in responsible charge with regard to ARRO's certificate of authorization to do business in West Virginia and agrees to same.



**CONSENT OF CONSTANCE M. DOUGHER**  
**For ARRO CONSULTING, INC.**

Constance M. Dougher, as the representative of, attorney for and signatory to this Consent Order on behalf of Respondent firm, by affixing her signature hereon, agrees to or acknowledges the following:

59. Respondent firm is aware of its right to be represented by counsel, but chose to have its in-house counsel negotiate this joint settlement on behalf of the firm and the individually named Respondents.
60. Respondent firm is aware of its right to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives its right to do so.
61. Respondent firm intelligently and voluntarily waives its right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
62. Respondent firm agrees to accept this informal settlement of Complaint 2006-08.
63. Respondent firm consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
64. Respondent firm acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate.
65. Respondent firm acknowledges that proof of any misstatement or misrepresentation made by its agents or representatives with regard to this Complaint or any document or statement relied upon in the entering of this Consent Order will result in the rescission of this agreement, the summary revocation of its certificate of authorization, the reinstatement of the Complaint, and the addition of any other charges which may ensue from providing false information to the Board in violation of West Virginia engineering law.
66. Respondent firm acknowledges and understands Respondent Parks

responsibilities as the engineer in responsible charge with regard to ARRO's certificate of authorization to do business in West Virginia and agrees take all steps reasonable and necessary to ensure Respondent Parks compliance with same.

67. Respondent firm acknowledges and understands that it is responsible for compliance with all business laws of the State of West Virginia and that the West Virginia Board of Registration for Professional Engineers has no jurisdiction over and is making no findings or representations regarding any other business licensures and related matters required to do business in the State of West Virginia which are outside the jurisdiction of the Board.

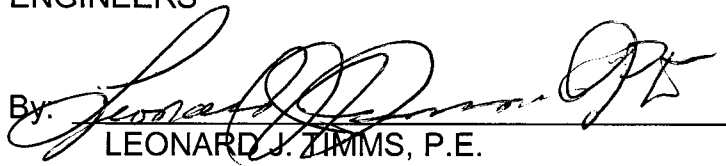
### **ORDER**

68. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).
69. The Board **ORDERS** Respondent Moss to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a license.
70. Respondent Moss shall not practice or offer to practice engineering in the State of West Virginia unless and until he is licensed to practice engineering in West Virginia, which license shall not issue until Respondent Moss has paid the civil penalty imposed herein.
71. The Board **ORDERS** Respondent Parks to pay a civil penalty in the amount of One Thousand Dollars (\$1000.00) for aiding and abetting the unlicensed practice of engineering.
72. The Board **ORDERS** Respondent ARRO to pay a civil penalty in the amount of Six Thousand Five Hundred Dollars (\$6500.00) for aiding and abetting the unlicensed practice of engineering.
73. The civil penalties imposed herein, whether paid separately or collectively, must be paid within fifty (50) days of the date of the signature of the Board

President, each penalty to be made payable to the W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt.

74. Respondents acknowledge the Complaint and this Consent Order are public records and agree that the sum and substance of the nature of the Complaint and this agreement and/or the documents in their entirety may be set forth in Board publications and on the Board website, as well as other appropriate placements, including the non-public enforcement exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).
75. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of individual Respondents' licenses and Respondent firm's certificate of authorization issued by this Board and, after hearing, further disciplinary action by the Board.
76. Nothing in this Consent Order or the circumstances giving rise to same may be the subject of any appeal or other civil or administrative action initiated by Respondents.
77. If the civil penalties imposed hereunder are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondents upon application by the Board for the entry of a Judgment Order for the total amount of payments agreed to herein (\$7750.00), together with pre-judgment interest from the date of the President's signature hereon and post-judgment interest from the date of entry of the Judgment Order, which judgment shall be fully executable in accordance with applicable law.

WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL  
ENGINEERS

By:   
LEONARD J. TIMMS, P.E.  
Board President

Date: 9/21/06

Constance M. Dougher  
ARRO CONSULTING, INC.,  
by Constance M. Dougher, its Vice-President  
and Counsel

Date: 8/31/06

Richard D. Parks  
by RICHARD D. PARKS, P.E. and Engineer in  
Responsible Charge for ARRO Consulting, Inc.

Date: 9/07/06

Joseph W. Moss  
by JOSEPH W. MOSS, P.E.

Date: 9/07/06