

RECEIVED

DEC 28 2015

RECEIVED

DEC 21 2015

WV PE BOARD
BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: JOHN B. REGEN

C2016-07

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Edward L. Robinson, P.E., its President, (hereinafter "the Board") for the purpose of agreeing to resolve a Complaint seeking disciplinary action against John B. Regen (hereinafter "Respondent"). 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 matters set forth herein are within the jurisdiction of the Board, which is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia.
2. Respondent is a licensed professional engineer in his home state of Tennessee and several other states, and was licensed in West Virginia until July 13, 2015 (license #16250), at which time he requested that his license be designated inactive.
3. After a Board investigation revealed that Respondent had signed and sealed drawings for a medical care facility in Man, West Virginia, on July 31, 2015, the Board initiated complaint number C2016-07 at its regular meeting on September 15, 2015, which was filed and served on September 23, 2015.
4. Respondent did not file a response to the complaint but for a timely letter enclosing his July 2015 timesheets, which indicate the last date for work on this project was July 13th, and a July 30 e-communication, which Respondent contends is the date the architect requested the drawings and the date they were published.
5. Respondent was not licensed to practice engineering in West Virginia on July 30th or 31st, having, at his request, gone on inactive status on July 13th.

6. The Board has taken into account the following factors in reaching this settlement: Respondents' cooperation in the prompt resolution of this Complaint and the nature of the violation, which did not pose harm to the public since Respondent was licensed at the time the work was performed but for affixing his seal and signing same.
7. The Board, in its discretion, will not assess administrative costs although it is within its power to assess such costs and administrative costs were incurred in the investigation, initiation and resolution of this complaint.

CONCLUSIONS OF LAW

8. The Board is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia, and matters related to such practice are within the jurisdiction of the Board. W. Va. Code § 30-13-1 *et. seq.*
9. It is unlawful for any person to practice or offer to practice engineering, as defined by West Virginia Code § 30-13-3(e), in the State of West Virginia unless that person is duly registered under the provisions of West Virginia engineering law. W. Va. Code § 30-13-2.
10. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration of, or place on probation, impose a civil penalty or reprimand any professional engineer who has failed to comply with any of the provisions of this article or any of the rules promulgated under it. W. Va. Code § 30-13-21(a)(4).
11. The Rules of Professional Responsibility prohibit registrants from affixing their signatures or seals to any plans or documents except in accordance with W. Va. Code §30-13-1 *et. seq.* and the Board's rules. W. Va. Code R. §7-1-12.4(b).
12. The Board is authorized 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." W. Va. Code § 30-13-21(b); see also W. Va. Code § 30-13-21(d)(4).

13. Practicing engineering, as defined by W. Va. § 30-13-3(e), without a license is an action that may subject a person to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00). W. Va. Code R. § 7-1-15.1.
14. Misuse of the professional engineering seal, which would include affixing the seal at a time when the registrant does not hold an active license, may subject a person to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00). W. Va. Code R. § 7-1-15.1.
15. In determining the amount of a civil penalty to be assessed, the Board may consider such factors as the circumstances leading to the violation; the nature and severity of the violation and the risk of harm to the public; the extent to which the cited person or firm has cooperated with the Board and the Board's investigation; and other matters as may be appropriate. W. Va. Code R. § 7-1-15.4.
16. The assessment of administrative costs is within the Board's sole discretion. W. Va. Code § 30-13-21(d)(4) and W. Va. Code R § 7-1-14.4.

CONSENT OF RESPONDENT

Respondent John B. Regen, by affixing his signature hereon, agrees to the following:

17. Respondent is aware of his right to be represented by counsel and to pursue this matter through appropriate administrative and/or court procedures, including his right to a formal hearing before the Board, and Respondent intelligently and voluntarily waives these rights provided the Board accepts the terms and conditions set forth in this Consent Order.
18. Respondent admits that he did not have a license to practice engineering in the State of West Virginia at the time he signed and sealed drawings for a project in West Virginia, in violation of West Virginia engineering law.
19. Respondent accepts the findings set forth above and consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

20. Respondent acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board action on Complaint Number C2016-07. This paragraph is binding on Respondent even in the event that the Board does not approve this Consent Order.
21. Respondent acknowledges that this Consent Order is being executed for the purpose of avoiding further administrative action with respect to the above-styled matter. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent's activities in West Virginia in consideration of this Consent Order.
22. Should the Board not approve this Consent Order, Respondent waives any objections to the Board or any of its members participating in the adjudication of this matter. This paragraph is binding on Respondent even if the Board does not approve this Consent Order.
23. Respondent acknowledges that the Board may reject this proposal, notice and hold a hearing, and, upon adjudication, impose such sanctions of a disciplinary nature as it deems appropriate.
24. Respondent understands that this Consent Order constitutes a full and final settlement of this matter, and nothing in this Consent Order or the circumstances giving rise to the same may be the subject of any appeal or other civil or administrative actions except an action by the Board to enforce the terms of this Consent Order, but that nothing in this Consent Order prohibits the Board from considering this disciplinary action or the circumstances giving rise to same with regard to any future disciplinary matter involving Respondent which may be before this Board.
25. Respondent understands that the complaint and this Consent Order are public records which, together with other public documents in the file, must be made available upon legal request in accordance with the state's Freedom of Information Act.
26. Respondent agrees that the sum and substance of the Complaint and this agreement in part or in their entirety will be set forth in Board publications and on the Board's 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).

27. Respondent acknowledges that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of any license or certification issued to Respondents by the Board, and the addition of any other charges which may arise or ensue from Respondents' non-compliance with this Consent Order.
28. Respondent acknowledges that proof of any material misstatement or misrepresentation made in connection with this matter will result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of any license or certification which may have been issued to Respondent by the Board, and the addition of any other charges which may arise or ensue from providing false information to the Board in violation of West Virginia engineering law.

ORDER

1. On the basis of the foregoing, and upon entry of this Consent Order, the Board hereby **ORDERS** that this Consent Order shall serve as settlement of Complaint number C2016-07 pursuant to West Virginia Code § 30-13-22(b).
2. Respondent is **REPRIMANDED** for signing and sealing engineering work after the date on which he requested that his license be placed on inactive status.
3. Respondent shall refrain from practicing engineering in West Virginia or offering engineering services in West Virginia unless and until Respondent has taken the steps necessary to have his license reinstated.
4. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred and Fifty Dollars (\$250.00).

5. The civil penalty imposed herein totaling Two Hundred and Fifty Dollars (\$250.00) must be paid within thirty (30) days of the date of entry set forth below, such amount 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.
6. The sum and substance of the Complaint and this agreement in part or in their entirety shall be set forth in Board publications and on the Board's 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).
7. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
8. If the civil penalty imposed herein is 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 payment agreed to herein (\$250.00), together with pre-judgment interest from the date of the President's signature hereon, post-judgment interest from the date of entry of the Judgment Order and all costs of any enforcement action(s), which judgment shall be fully executable in accordance with applicable law.
9. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalties agreed to herein.
10. This Consent Order constitutes a full and final settlement of this matter, and nothing in this Consent Order or the circumstances giving rise to same may be the subject of any appeal or other civil or administrative actions except an action by the Board to enforce the terms of this Consent Order. This shall not prohibit the Board from considering this disciplinary action or the circumstances giving rise to the same with regard to any future disciplinary matter involving Respondent which may come before this Board.

11. This Consent Order relates solely to matters set forth in West Virginia engineering law and does not evidence compliance with any other laws of the State of West Virginia or its political subdivisions, nor should any such compliance be implied.

AGREED TO BY:



JOHN B. REGEN

12/14/2015
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 22 day of February, 2015.

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

By: 

EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT