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NOV. 28, 2009

WVPE BOARD

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BEFORE THE WEST VIRGINIA STATE BOARD
OF REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: ROBERT A. WALZ

C2009-21

DEC 07 2009

WVPE BOARD

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") for the purpose of agreeing to disciplinary action to be taken against Robert A. Walz (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 Board is a state entity created by West Virginia Code § 30-13-1 *et seq.* and is empowered to regulate the practice of professional engineering pursuant to West Virginia Code § 30-13-1 *et seq.*
2. Respondent is a licensed professional engineer in the State of West Virginia holding license number 15052.
3. Respondent is also licensed in the State of North Carolina possessing license number 014781.
4. On or about February 22, 2008, Respondent was sent a "Notice of Contemplated Board Action" thereby notifying him that the North Carolina Board of Examiners for Engineers and Surveyors had sufficient evidence to support a charge of gross negligence, incompetence or misconduct.
5. On September 11, 2008, the North Carolina Board of Examiners for Engineers and

Surveyors entered a Decision and Order acknowledging that Respondent had accepted the recommendation of the "Settlement Conference Committee" imposing the following discipline: a reprimand, a civil penalty of Five Thousand Dollars (\$5,000.00) and successful completion of an ethics course.

6. When applying for his 2008 renewal, Respondent submitted to the Board that he had not been the subject of any investigations or disciplinary actions in any other states and failed to disclose that he was the subject of an investigation for disciplinary violations in North Carolina.
7. On his 2009 renewal application, Respondent did report the aforementioned agreed disciplinary action resulting from the investigation by the North Carolina Board of Examiners for Engineers and Surveyors.
8. After receiving Respondent's 2009 license renewal application, the Board Investigator made some inquiries to Respondent and the North Carolina Board of Examiners for Engineers and Surveyors regarding the circumstances warranting the disciplinary action that Respondent had reported on his renewal application.
9. During the course of investigating this matter, the Board Investigator uncovered that, while the Respondent did not receive formal disciplinary action against him until September 11, 2008, he had in fact been a subject of an investigation in North Carolina since at least 2007.
10. During a conversation with the Board Investigator, Respondent stated that he did

not report the investigation on his 2008 renewal application because there had been no disciplinary action taken at that time.

11. The Board Investigator informed the Respondent that the renewal form specifically asks "[h]ave you been subject to disciplinary action or investigation by another jurisdiction since your last WV PE renewal?" and that his answering "no" to that question, when Respondent had in fact been the subject of an investigation, on his 2008 renewal form would constitute a violation of the laws as it pertains to the practice of engineering in West Virginia.
12. It is within the Board's power to assess administrative costs according to W.Va. Code R § 7-1-14.4.
13. Respondents have waived their 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.

CONCLUSION OF LAW

1. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a license or impose a civil penalty upon any professional engineer who has provided misinformation to the Board. West Virginia Code § 30-13-21(a)(12).
2. Providing misinformation to the Board, to which Respondent has admitted herein, is an action that is subject to discipline by the Board, including a civil penalty up to Fifteen Thousand Dollars (\$15,000.00). W. Va. Code R § 7-1-15.1.
3. 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. West Virginia Code § 30-13-21(b); *see also* W. Va. Code § 30-13-21(d)(4).

4. Each day of continued violation may constitute a separate offense. W. Va. Code R. § 7-1-15.3.

CONSENT OF RESPONDENT

Robert A. Walz, by affixing his signature hereon, agrees to the following:

1. Respondent is aware of his right to be represented by counsel and of the option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently and voluntarily waives his right to do so.
2. Respondent 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.
3. Respondent admits he did not report that he was the subject of an investigation of a possible disciplinary action in North Carolina when renewing his West Virginia Professional Engineer license in January, 2008.
4. Respondent accepts the findings set forth above and consent to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
5. Respondent acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of the six month time limit set forth in West Virginia Code § 30-

13-22(b) for the disposition of Complaint Number C2009-21. This paragraph is binding on the participants even in the event that the Board does not approve this Consent Order.

6. 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 prior to in conjunction with consideration of this Consent Order.
7. Respondent further acknowledges that the Board may reject this proposal, complete the hearing, and, upon adjudication, impose such sanctions of disciplinary nature as it deems appropriate.
8. Should the Board not approve this Consent Order, Respondent understands that he has waived any objections to the Board or any of its members participating in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Order.
9. Respondent understands that this Consent Order and the underlying Complaint are public records and 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 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).

10. Respondent acknowledges that proof of any 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 certificate of authorization issued to Respondent, 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 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).
2. This Consent Order is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent Firm prior to or in conjunction with consideration of this Consent Order. Furthermore, should this Consent Order not be accepted by the Board, it is agreed that presentation to and by the Board shall not preclude the Board or any of its members from further participation, consideration or resolution of these proceedings.

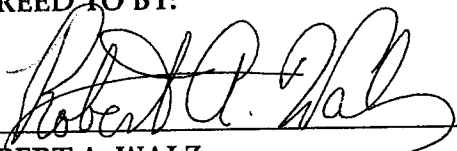
3. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Five Hundred dollars (\$500.00) for providing misinformation to the Board.
4. The civil penalties imposed herein totaling Five Hundred Dollars (\$500.00) must be paid within thirty (30) days of the date Respondent receives notice of the Board President's signature hereon, 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. Failure to remit the payment of these civil penalties within the prescribed time period will result in further disciplinary action by the Board.
5. The Board **ORDERS** Respondent to pay administrative costs in the amount of Two Hundred Eighty-eight Dollars and Seventy-five Cents (\$288.75).
6. The administrative costs imposed herein totaling Two Hundred Eighty-eight Dollars and Seventy-five (\$288.75) must be paid within thirty (30) days of the date Respondents receive notice of the Board President's signature hereon, such amount to be made payable to the W.Va. P.E. Board (Administrative Costs). This payment must be separate from that of the civil penalties imposed above.
7. In accordance with the laws and rules governing the Board, this Consent Order and the underlying Complaint are public records and the sum and substance of the Complaint and this agreement in part or 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).

8. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
9. 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 action except an action to enforce the terms of this Consent Order.
10. If the civil penalties and administrative costs imposed herein are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondent upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein, Seven Hundred Eighty-eight Dollars and Seventy-five Cents (\$788.75), 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.
11. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty and administrative costs agreed to herein.
12. This Consent Order relates solely to matters within the jurisdiction of the West Virginia Board of Registration for Professional Engineers 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:

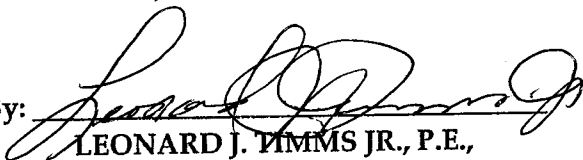

ROBERT A. WALZ

November 16, 2009
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this:

7TH day of DECEMBER, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: 
LEONARD J. TIMMS JR., P.E.,
BOARD PRESIDENT

12/4/09
DATE

PREPARED BY:

NICOLE A. COFER
ASSISTANT ATTORNEY GENERAL
STATE CAPITOL, BLDG.1, ROOM 26-E
CHARLESTON, WEST VIRGINIA 25305