

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: DENNIS S. NELSON, NEL-STRUCT, LLC

C-2005-4

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 Dennis S. Nelson. 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. Dennis S. Nelson [at times referred to herein as Respondent Nelson or Mr. Nelson] is an engineer with Nel-Struct LLC ["firm"] in Eau Clair, Wisconsin.
3. Dennis S. Nelson's West Virginia professional engineer's license (No. 9994) was suspended on or about November 19, 2004, for failure to respond to an audit of his professional development hours (PDHs).
4. Inasmuch as Mr. Nelson is Nel-Struct's registered engineer in West Virginia, Nel-Struct's certificate of authorization also should have been suspended on that date but has remained in effect until it expired on July 1, 2005, which expiration will not become effective until October 1, 2005.
5. This Complaint was issued by the Board on April 22, 2005, in response to

the circumstances set forth below.

6. Prior to January 4, 2005, the Board's investigator learned of work Respondent Nelson did or may have done for Corle Building Systems, against whom a Complaint is pending before this Board and attempted to speak directly to Respondent Nelson regarding same.
7. On January 4, 2005, the Board's investigator left a message for Mr. Nelson to call, which call was unreturned until February 15, <sup>2005</sup>~~2004~~, at which time Respondent Nelson called to inquire about reinstatement of his W. Va. PE license.
8. The Board's investigator discussed work done by Respondent Nelson for Corle Building Systems, and Respondent Nelson agreed to look for the file and get back with the investigator.
9. Respondent Nelson never got back to the Board's investigator despite his receipt of a certified letter warning of possible Board action and repeated telephone calls.
10. Because of the repeated disregard of the Board's requests for information, the Board initiated disciplinary action.
11. Mr. Nelson never filed a response, although the Board's cover letter dated April 26, 2006, directed him to file a response in thirty (30) days.
12. A notice of hearing was served on August 18, 2005, for a hearing to be held on Monday, September 19, 2005.
13. Respondent Nelson never contacted the Board or its attorney until the Thursday before the scheduled hearing, September 15th.
14. Discussions between the Board's investigator and Respondent on Friday, September 16, 2005, resolved the underlying matters giving rise to this Complaint, i.e., the Board's request for information regarding Respondent's work for Corle Building Systems.

15. Also on September 16, 2005, Respondent Nelson was extended an offer of settlement, which he declined at that time despite being advised that preparations would be made for the Monday hearing, thereby increasing the potential administrative costs assessed by the Board.
16. Respondent Nelson was further advised that he could informally discuss the matter with a member of the Board on Monday, September 19<sup>th</sup>, prior to the scheduled hearing, and he availed himself of this opportunity.
17. Board member Plymale discussed the matter with Respondent, who had no defense to his failure to provide the requested information to the Board except that he was very busy.
18. Respondent stated neither he nor his firm had done any engineering work in West Virginia since his suspension, and the Board has no evidence to the contrary.
19. During said conversation, Respondent waived his right to a hearing on this matter and waived other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board and agreed to the informal settlement set forth in this Consent Order.
20. The Board incurred out-of-pocket expenses with regard to this Complaint, including the court reporter's appearance fee, of approximately \$175 and expended staff and attorney time in the filing, prosecution and resolution of this Complaint.
21. Respondent agrees to accept an informal settlement of Complaint 2005-4.



### **CONCLUSIONS OF LAW**

22. West Virginia Code §30-13-21(a)(6) authorizes the Board to discipline any person who has "failed within thirty days to provide information requested by the board as a result of a formal or informal complaint to the board ..."
23. 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).
24. Failure to timely provide information to the Board, to which Respondent has admitted, is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to \$1000.00. 7 C.S.R. 1.15.1.
25. Non-compliance with a Board request or order, to which Respondent has admitted, is an action that would subject a person to discipline by the Board, including a civil penalty up to \$1000.00. 7 C.S.R. 1.15.1.
26. Each day of continued violation may constitute a separate offense. 7 C.S.R. 1.15.3.

### **CONSENT OF DENNIS S. NELSON**

Dennis S. Nelson, by affixing his signature hereon, agrees to the following:

27. Mr. Nelson acknowledges this is a legally binding document that affects his rights and privileges.
28. Mr. Nelson acknowledges he is aware of the option to retain and be represented by legal counsel and/or to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.

29. Mr. Nelson 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.
30. Mr. Nelson acknowledges he cannot solicit or perform engineering work in the State of West Virginia until he holds a PE license issued by this Board, and that this settlement has no effect on the reinstatement of his PE license.
31. Mr. Nelson understands that no action will be taken on any application for reinstatement of his license unless and until there has been full compliance with this Consent Order.
32. Mr. Nelson acknowledges that Nel-Struct LLC cannot legally practice engineering in the State of West Virginia unless and until employs a professional engineer duly licensed in the State of West Virginia.
33. Mr. Nelson consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
34. Mr. Nelson agrees to the terms set out below.
35. Mr. Nelson 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.
36. Mr. Nelson acknowledges that, upon proof of any misstatement or misrepresentation made by him to this Board or any member thereof, or to its staff or attorney, regarding any matter relied upon in the entering of this consent agreement, especially with regard to no work being performed in West Virginia by him or his firm, will result in the rescission of this

agreement, 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.

### **ORDER**

37. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Agreement shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).
38. The Board **ORDERS** Respondent or his firm to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for failure to timely provide information to the Board.
39. The Board **ORDERS** Respondent or his firm to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for non-compliance with a Board request or order.
40. The Board **ORDERS** Respondent or his firm to pay administrative costs in the amount of Two Hundred Dollars (\$200.00).
41. The civil penalties of One Thousand Dollars (\$1,000.00) imposed herein must be paid within fifty (50) days of the date of the signature of the Board President, such amount to be made payable to the "WV PE Board" for transfer to the general fund of the State of West Virginia by the Board upon receipt.
42. The administrative costs must be paid within fifty (50) days of the date of the signature of the Board President by check payable to the "WV PE Board."
43. Respondent is prohibited from practicing or offering to practice engineering in the State of West Virginia until duly registered with this Board, and his firm shall not conduct business in this State until receipt of a COA which names an engineer in responsible charge who is duly licensed in West



Virginia.

44. Respondent acknowledges that this Consent Agreement is a public record and agrees that the sum and substance of the nature of the Complaint and this Agreement may be set forth in Board publications, on the Board website and national enforcement databases, as well as other appropriate placements.
45. Any violation of the terms of this Consent Agreement shall be immediate cause for a hearing and further disciplinary action by the Board.

WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

By   
Leonard J. Timms, P.E.  
Board President

Date:

  
DENNIS S. NELSON, individually and on behalf of  
Nel-Struct LLC

Date: 11-22-05

RECEIVED

NOV 23 2005

WV REGISTRATION BOARD