

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

**IN RE: C. J. Brown Energy, P.C.
 Buffalo Engineering, P.C.
 Walid S. Daham, P.E.**

C2006-14

REVISED 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 C. J. Brown Energy, P.C. and Walid S. Daham [hereinafter at times referred to as Respondent firm, Respondent Daham or Respondents]. 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. Walid S. Daham is the president of both C. J. Brown, P.C. and Buffalo Engineering, P.C., separate companies with the same business address.
3. Respondent Daham is licensed to practice engineering in West Virginia under license number 016236.
4. The board-initiated complaint was filed by certified mail on August 2, 2006, and this Consent Order was negotiated and agreed to during the thirty days in which Respondents had an opportunity to formally respond.
5. Respondent Daham admits that Respondent C. J. Brown, P.C., practiced and offered to practice engineering in West Virginia without the required

- certificate of authorization (COA).
6. Respondent Daham states that Buffalo Engineering, P.C., which does not hold a COA in West Virginia, has never practiced or offered to practice engineering in West Virginia.
 7. In reliance on the above statement, the Board finds it appropriate to dismiss the Complaint as to Buffalo Engineering, P.C.
 8. Respondent firm's engineering work in West Virginia included work for West Virginia University, which is an on-going consultation for which no drawings have been prepared, and for the Kanawha County Board of Education (KCBOE) in which Respondent firm was the sub-contractor for engineering work and did drawings for renovation work for nine KCBOE schools.
 9. In connection with the work for KCBOE, unsealed drawings were presented to a permitting authority, which failure to seal gave rise to this complaint as to Respondent Daham.
 10. Respondent C. J. Brown, P.C., applied for and received Certificate of Authorization Number C02650-00 on or about June 15, 2006.
 11. Respondent Daham states the unsealed drawings were progress drawings requested by the contractor, who knew the drawings were not final, were not ready to be sealed and stamped, and should not have been presented to a permitting authority.
 12. Respondents admitted that the customary practice of the firm was to stamp such drawings "Progress Drawings Only – Not Intended for Construction" and that such stamp should have been placed on the KCBOE drawings.
 13. Respondent firm's prompt cooperation with the Board has mitigated its culpability regarding the charge of practicing engineering without the required COA.

14. Respondent Daham's explanation regarding his failure to seal his drawings is deemed reasonable and credible with regard to that charge, and, in reliance on the explanation, the Board finds it appropriate to dismiss the Complaint as to Respondent Daham and to proceed solely against Respondent C. J. Brown, P.C.
15. Respondent firm 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.
16. 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

17. West Virginia engineering law allows a firm to practice or offer to practice engineering only upon the issuance a certificate of authorization by the Board. West Virginia Code §30-13-17.
18. 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).
19. Practicing or offering to practice engineering without a COA, to which Respondent firm has admitted herein, is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
20. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF WALID S. DAHAM AND C. J. BROWN, P.C

Walid S. Daham, individually and as President of C. J. Brown, P.C., by affixing his signature hereon, agrees to the following individually and on behalf of Respondent company:

21. Respondent Daham understands this settlement is in part based on the Board's reliance on the information received from him and set forth in this Consent Order.
22. Respondent firm is aware of its right to be represented by counsel and of its option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently, knowingly and voluntarily waives its right to do so.
23. Respondent 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.
24. Respondent agrees to accept an informal settlement of Complaint 2006-14.
25. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
26. 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.
27. Respondent firm acknowledges that proof of any misstatement or misrepresentation made on its behalf herein, Respondent firm's application

for COA, or any other document or statement relied upon in the entering of this consent order, 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 Respondents, 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.

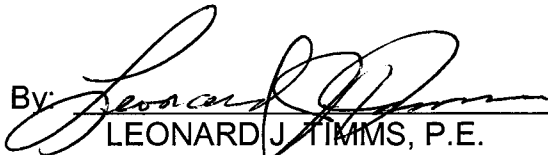
ORDER

28. 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).
29. The Board **ORDERS** Respondent firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing or offering to practice engineering without a certificate of authorization.
30. The civil penalty imposed herein must be paid within fifty (50) days of the date of the signature of the Board President, such 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.
31. Respondent will not practice or offer to practice engineering in the State of West Virginia until it pays the civil penalty imposed herein.
32. Respondents acknowledge this Consent Order and the underlying Complaint are public records and agree that 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

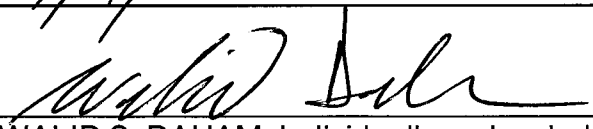
Surveying (NCEES).

33. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of Respondent Daham's engineering license, Respondent firm's COA and further disciplinary action by the Board.
34. 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 Respondent.
35. If the civil penalty imposed hereunder is 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 (\$250.00), 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: 9/24/06


WALID S. DAHAM, Individually and on behalf of
C. J. BROWN ENERGY, P.C.

Date: 9/5/06