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

**IN RE: ASHIM RAY
RAY GROUP CONSULTING ENGINEERS, INC.**

**C2018-04
(AMENDED)**

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 the Board-initiated Amended Complaint against Ashim Ray ("Respondent Ray") and Ray Group Consulting Engineers, Inc. ("Respondent Firm" or together "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 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 Ray is a licensed professional engineer in Georgia and many other states.
3. Respondent Ray's application for his West Virginia P.E. license was received by the Board on August 25, 2017, and he was issued P.E. License No. 14116 on September 19, 2017.
4. Respondent Firm, which is organized under the laws of the State of Georgia, thereafter applied for its Certificate of Authorization (COA) on September 26, 2017, which was issued that same day.

5. Prior to obtaining these credentials, Respondents prepared electrical drawings for a store renovation in Hurricane, West Virginia.
6. The Board initiated Complaint Number C2018-04 at its regular meeting on September 20, 2017, to which Respondents, by counsel, filed a timely response.
7. In the response, Respondents stated that they collaborated with a WV-licensed P.E. to approve and sign-off on the drawings, which relationship was severed upon the receipt of information that the local planning commission did not need stamped drawings or a permit.
8. The Board, on September 26th, received Respondent Firm's COA application, which was the same day as the service of the original Complaint.
9. On the COA application, Respondents answered "No" to the questions whether Respondent Firm had ever been subject to any disciplinary action or investigation by any local, state or national regulatory body.
10. By the time stamped drawings were required for construction, Respondents had received the necessary credentials and thus were able to and did legally apply a WV seal on the drawings on September 29, 2017, but this does not absolve Respondents' practice of engineering prior to receiving these credentials.
11. Upon further investigation, the Board learned that Respondent Ray, on behalf of Respondent Firm, had signed a consent agreement with the South Carolina Board in 2013, which should have been but was not disclosed in response to the question regarding disciplinary action.
12. The Board, at its regular meeting on November 15, 2017, moved to and did amend C2018-04 to include a count for Respondents' perpetrating a fraud or deceit in obtaining its COA, to which Respondent filed a response to the complaint as amended.

Respondents contend, and the Board accepts, their hiring of a West Virginia engineer was intended to address their initial lack of credentials, but Respondents concede they practiced engineering in West Virginia prior to obtaining the necessary credentials from this Board and admit they failed to disclose the disciplinary action in South Carolina, but state that the non-disclosure was an inadvertent mistake.

13. By agreement of the parties, the violation alleged in the Amended Complaint is reduced herein to providing misinformation to the Board. Respondents admit their misrepresentation on Respondent Firm's application for a COA constitutes the provision of misinformation to the Board in obtaining the COA, but contend the provision of misinformation was inadvertent.
14. The Board has taken into account the following factors in reaching this settlement: there was no risk of harm to the public given that Mr. Ray was licensed in West Virginia at the time the drawings were used for construction; and Respondents cooperated in the resolution of this Complaint.
15. 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 the original and amended complaint.

CONCLUSIONS OF LAW

16. 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.*
17. Mr. Ray, as Owner of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.

18. 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.
19. West Virginia engineering law allows a firm to practice engineering only upon the issuance of a certificate of authorization by the Board. W. Va. Code § 30-13-17.
20. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, 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).
21. Respondents' practice of engineering prior to the issuance of a license and COA constitutes two (2) violations of W. Va. Code § 30-13-21(a)(4).
22. Providing false information to the Board is a basis for disciplinary action by the Board. W. Va. Code § 30-13-21(a)(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) and W. Va. Code R. § 7-1-15.
23. The provisions of W. Va. Code § 30-13-21(a) are applicable as appropriate to firms. W. Va. Code § 30-13-21(d).
24. Practicing engineering, as defined by W. Va. Code § 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.
25. Practicing engineering, as defined by W. Va. Code § 30-13-3(e), without a valid Certificate of Authorization is an action that may subject a firm to discipline by the

Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00) for each offense. W. Va. Code R. § 7-1-15.1.

26. Providing misinformation to the Board may subject any person or firm 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.
27. 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.
28. 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 FIRM

Ashim Ray, as Owner of Ray Group Consulting Engineers, Inc., and on its behalf, agrees to the following:

29. Respondents are represented by counsel and are aware of their right to pursue this matter through appropriate administrative and/or court procedures, including its right to a formal hearing before the Board, and notwithstanding, Respondent Firm intelligently and voluntarily waives these rights provided the Board accepts the terms and conditions set forth in this Consent Order.
30. Respondents concede they practiced engineering in West Virginia without the required license and COA.

31. Respondents concede they submitted a COA application which misrepresented Respondent Firm's prior disciplinary action.
32. Respondent Firm 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.
33. Respondents acknowledge that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board action on Amended Complaint C2018-04. This paragraph is binding on Mr. Ray and Respondent Firm even in the event that the Board does not approve this Consent Order.
34. Should the Board not approve this Consent Order, Respondents waive any objections to the Board or any of its members participating in the adjudication of this matter based on the Board's consideration of this Consent Order. This paragraph is binding on Mr. Ray and Respondent Firm even if the Board does not approve this Consent Order.
35. Respondents acknowledge 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 based on the amended complaint as filed.
36. Respondents understand 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, unrelated disciplinary matter involving Respondents which may be before this Board.
37. Respondents understand that the original Complaint, documents submitted to the Board by Respondents, and this Consent Order, together with other public documents which

may be in the file, are public records which must be made available upon legal request in accordance with the state's Freedom of Information Act.

38. Respondents agree that the sum and substance of the Amended 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).
39. Respondents acknowledge that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaint as amended, the summary revocation of the license issued to Respondent Ray and the certification issued to Respondent Firm by the Board, and the addition of any other charges which may arise or ensue from non-compliance with this Consent Order.
40. Respondents acknowledge that proof of any material misstatement or misrepresentation made in connection with this matter may result in the rescission of this agreement, the reinstatement of the Complaint as amended, the summary revocation of any certification issued to Respondents 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 Amended Complaint Number C2018-04 pursuant to W. Va. Code § 30-13-22(b).

2. The Board **ORDERS** Respondents to pay total civil penalties in the amount One Thousand Dollars (\$1,000.00) for the following violations:
 - a. A penalty of Two Hundred Fifty Dollars (\$250.00) for Respondent Ray's practice of engineering in West Virginia prior to obtaining his license;
 - b. A penalty of Two Hundred Fifty Dollars (\$250.00) for Respondent Firm's practice of engineering in West Virginia prior to obtaining the required COA.
 - c. A penalty of Five Hundred Dollars (\$500.00) for providing misinformation to the Board on Respondent Firm's COA application.
3. The civil penalties imposed herein totaling One Thousand Dollars (\$1,000.00) 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.
4. The sum and substance of the Amended Complaint and this agreement in part or in their entirety shall 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).
5. Any violation of the terms of this Consent Order shall be immediate cause for rescission of this consent order, reinstatement of the Amended Complaint, the summary revocation of the license issued to Respondent Ray and the certification issued to Respondent Firm by the Board, and further disciplinary action by the Board.
6. If the civil penalties totaling One Thousand Dollars (\$1,000.00) are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondent Firm upon application by the Board for the entry of

a Judgment Order for the total amount of payment agreed to herein, 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.

7. 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.
8. 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, unrelated disciplinary matter involving Respondent Firm which may come before this Board.
9. 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.

[signatures appear on next page]

AGREED TO BY:

ASHIM RAY, Owner
RAY GROUP CONSULTING ENGINEERS, INC.

March 20, 2018
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 10th day of April, 2018.

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

By: EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT

PREPARED BY:

PATRICK MORRISEY
West Virginia Attorney General

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By: DEBRA L. HAMILTON (WV Bar No. 1287)
Deputy Attorney General
Counsel for West Virginia State Board of Registration for Professional Engineers

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