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BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: VERTICAL SOLUTIONS, INC.
MICHAEL LASSITER

C2008-03

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president, and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia (hereinafter "the Board") for the purpose of agreeing to the resolution of C2008-03 regarding Vertical Solutions, Inc. [hereinafter at times referred to as Respondent Firm] and Michael Lassiter [hereinafter at times referred to as Respondent Lassiter]. 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. Vertical Solutions, Inc., is a corporation organized under the laws of the State of North Carolina with its sole office in Holly Springs, North Carolina.
3. Michael Lassiter is the President of Vertical Solutions, Inc., and has the power and authority to make admissions and otherwise act on behalf of Vertical Solutions, Inc.
4. Respondent Lassiter was a professional engineer in North Carolina at the time he applied for licensure in West Virginia on September 12, 2006.
5. Respondent Lassiter was approved for licensure in the State of West Virginia on September 26, 2006, and was notified of same by written communication dated

September 29, 2006.

6. Respondent Lassiter failed to follow the final step toward licensure, i.e., obtain a seal and send indicia of same to the Board, which requirement was highlighted in the communication of September 29th: *You are not licensed to practice engineering in the State of West Virginia until we have a copy of your seal on file in our office.*
7. Respondent Lassiter also failed to obtain a Certificate of Authorization (COA) on behalf of Respondent Firm although clearly advised of the need to do so in the Board's correspondence regarding his license and seal.
8. Respondent Lassiter discovered the oversight when Respondents received no renewal forms from the State of West Virginia and immediately took remedial action.
9. Respondent Lassiter completed the licensure process on July 23, 2007, which was then effective from the date of approval, September 26, 2006.
10. Respondent Firm promptly obtained a COA after qualifying for same by having Respondent Lassiter named as the professional engineer in responsible charge of Respondent Firm.
11. The Board initiated this complaint on September 11, 2007, and received a response on October 12, 2007, wherein Respondents admit they provided engineering services in the State of West Virginia without a license to practice engineering in this State and without a valid COA.
12. In his defense, Respondent Lassiter states he "had never seen the original letter from the board" and that failure to provide the Board with a copy of his seal was an oversight on his part and that of his staff.
13. Respondents had previously cooperated with the Board by providing a list of four (4) jobs sealed prior to completing the licensure process, the first being in October 2006, which list the Board accepts as a complete list of work done in

West Virginia without the appropriate license and COA.

14. Respondents obtained counsel subsequent to the filing of their response and were represented by counsel during the negotiation of this Consent Order.
15. Respondents' conduct in connection with this Complaint, including the self-reporting and cooperation and candor with the Board in this matter, mitigates Respondents' culpability regarding the admitted violations of West Virginia engineering law.
16. The Board finds that at least one-fifth of the state licensing boards for professional engineering require successful applicants to provide a copy of their seal prior to licensure, contrary to Respondents' position that such a requirement is very unusual.
17. The Board finds that Respondent Lassiter made a good faith effort to become qualified in West Virginia prior to doing engineering work in this State and that his failure to provide a copy of the seal was in the nature of an administrative oversight and did not impact upon his qualifications as a professional engineer.
18. Based on the foregoing, the Board, in its discretion, agrees to dismiss the Complaint and take no disciplinary action against Respondent Lassiter and to proceed with disciplinary action solely against Respondent Firm.
19. The Board, in its discretion, will not assess administrative costs although the Board finds it is within its power to assess such costs to cover the expenses of this disciplinary action.
20. 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.

CONCLUSIONS OF LAW

21. West Virginia engineering law allows a firm to practice or offer to practice

engineering only upon the issuance of a certificate of authorization by the Board.
West Virginia Code §30-13-17.

22. A firm cannot obtain a certificate of authorization without naming an professional engineer licensed in West Virginia as its engineer in responsible charge. West Virginia Code §30-13-17(a).
23. 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).
24. Practicing or offering to practice engineering without a valid COA, to which Respondent Firm has admitted herein, is an action that could subject a firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
25. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF RESPONDENT LASSITER

Michael Lassiter, individually, by affixing his signature hereon, agrees to the following:

26. Respondent Lassiter has been represented by the counsel for Respondent Firm.
27. Respondent Lassiter accepts the findings set forth above and acknowledges that the dismissal of the complaint against him individually is based on statements made by or on his behalf which were relied on by the Board in negotiating this Consent Order.

28. Respondent Lassiter acknowledges that the Board may reject this proposal and may proceed with such disciplinary action as it deems appropriate.
29. Respondent Lassiter 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 against him individually, the summary revocation of his license, 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.
30. Respondent Lassiter acknowledges the public nature of this Complaint and Consent Order, as set forth in Paragraphs 39 and 44 below.

CONSENT OF RESPONDENT FIRM

Michael Lassiter, as President of Vertical Solutions, Inc., by affixing his signature hereon, agrees to the following on behalf of Respondent Firm:

31. Respondent Firm is aware of its option to pursue this matter through appropriate administrative and/or court procedures, but Respondent Firm intelligently and voluntarily waives its right to do so.
32. Respondent Firm has been represented by counsel.
33. Respondent Firm intelligently and voluntarily waives its right to service of the complaint by certified mail and its right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
34. Respondent Firm admits it practiced engineering in West Virginia without the required certificate of authorization.

35. Respondent Firm admits it was not eligible for issuance of a certificate of authorization at the time it began doing work in West Virginia because it had no professional engineer properly licensed in West Virginia in October of 2006.
36. 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.
37. Respondent Firm 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.
38. Respondent Firm 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 certificate of authorization issued to Respondent Firm, 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.
39. Respondent Firm acknowledges this Consent Order and the underlying Complaint are public records and agrees that the sum and substance of the Complaint, responses thereto, 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).

ORDER

40. 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).
41. The Board **ORDERS** that Respondent Lassiter be dismissed from this Complaint and that no disciplinary action be taken against him.
42. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering in West Virginia without a certificate of authorization.
43. The civil penalty imposed herein must be paid within thirty (30) days of the date Respondent Firm 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.
44. The Board **ORDERS** that this Consent Order be published on the Board website, summarized in the next annual newsletter of the Board, and reported to the enforcement exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).
45. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
46. 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.
47. If the civil penalties 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 (\$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.

48. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty agreed to herein.
49. 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.

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

By: 
LEONARD J. TIMMS, P.E.
Board President

Date: March 17, 2008


By **MICHAEL LASSITER**, individually and on
behalf of **VERTICAL SOLUTIONS, Inc.**

Date: March 15, 2008