

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: CARL V. DEICAS

C2010-07

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 disciplinary action to be taken against Carl V. Deicas (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 the same.
2. Respondent, Carl V. Deicas, was a licensee of the Board holding license number 14897 which expired in 2004.
3. At all relevant times, with regard to the allegations contained in this complaint, Respondent did not have a valid professional engineering license to practice in the State of West Virginia.
4. At its regular meeting, the Board initiated complaint number C2010-07 against Respondent which was filed on October 14, 2009. At this meeting the Board also initiated complaint number C2010-08 with regard to the same incident, however, the Board, in its discretion determined to proceed solely against Respondent.

5. Although Respondent's license with the Board had expired, he retained both an electronic and the physical professional engineering seal previously issued to him by the Board.
6. Paul Berardelli, a business associate of Respondent, designs cellular towers in Pennsylvania, Ohio and West Virginia including a chain link fence and pre-engineered building.
7. Mr. Berardelli is not a registered engineer in any state, including West Virginia.
8. Mr. Berardelli and Respondent had a working agreement where Respondent allegedly reviews and seals Mr. Berardelli's cellular tower designs at a previously negotiated rate.
9. Mr. Berardelli paid Respondent Four to Five Hundred Dollars (\$400.00-\$500.00) for the application of his seal to the drawings for each project.
10. Respondent permitted Mr. Berardelli to retain and apply an electronic copy of Respondent's expired West Virginia seal to the projects located in West Virginia.
11. Respondent's expired seal was applied electronically to the drawings for at least eight (8) projects/sites in West Virginia, including: BDA 001 – Morgan County, West Virginia; BDA 002 – Barbour County, West Virginia; BDA 003 – Mineral County, West Virginia; BDA 004 – Barbour County, West Virginia; BDA 005 – Tucker County, West Virginia; BDA 006 – Berkeley County, West Virginia; BDA 007 – Berkeley County, West Virginia; and, BDA 008 – Raleigh County, West Virginia.
12. Respondent did not personally make the drawings for the eight (8) projects in West

Virginia, nor did he directly supervise Mr. Berardelli in making such drawings, in violation of West Virginia engineering law.

13. Respondent did not maintain copies of the drawings bearing his seal for the aforementioned eight (8) projects completed in West Virginia.
14. Mr. Berardelli had no knowledge that Respondent's West Virginia Professional Engineering license was expired.
15. Respondent purported to provide engineering services for at least eight projects located in the State of West Virginia since the expiration of his license in 2004 and thereby without a valid professional engineering license.
16. Respondent admits that, through the application of his expired West Virginia professional engineering seal to eight (8) projects, he has engaged in conduct that deceives or defrauds the public and is therefore in violation of West Virginia engineering law.
17. Respondent further admits that his permitting his expired seal to be applied to projects in West Virginia that were not under his direct control constitutes a misuse of a West Virginia professional engineers seal and is in violation of West Virginia engineering law.
18. The Board, in its discretion, has the authority to assess administrative costs according to W.Va. Code R. § 7-1-14.4.
19. The Board has incurred Eight Hundred, Sixty-six Dollars and Twenty-five Cents (\$866.25) in administrative costs.

20. Respondent has waived his 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

1. It is unlawful for any person to practice or offer to practice engineering in the State of West Virginia unless that person is duly registered under the provision of West Virginia engineering law. West Virginia Code § 30-13-2.
2. 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).
3. Practicing or offering to practice engineering without a license, including an expired license, to which Respondent has admitted herein, is an action that would 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.
4. The Board is authorized to discipline any person who has engaged in conduct likely to deceive, defraud or harm the public. W. Va. Code § 30-13-21(a)(11).
5. Engaging in conduct likely to deceive, defraud or harm the public, to which Respondent has admitted herein, is an action that would subject a person 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.

6. The Board is authorized to discipline any person who has misused the West Virginia Professional Engineer seal. W. Va. Code § 30-13-21(a)(10).
7. Each registrant is solely responsible for the use of his or her seal. W. Va. Code R. § 7-1-7.3(e).
8. While the Board authorizes the electronic reproduction of a seal, "the registrant is responsible for the improper use of the seal on work not prepared either by the registrant or under his or her direct supervision." W. Va. Code R. § 7-1-7.3(h).
9. Misusing the West Virginia Professional Engineer seal, to which Respondent has admitted herein, is an action that would 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.
10. The Board may approve, defer or deny an application. W. Va. Code § 30-12-21 and W. Va. Code R. § 7-1-4.1.
11. 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).
12. Each day of continued violation may constitute a separate offense. W. Va. Code R § 7-1-15.3.

#### **CONSENT OF RESPONDENT**

Carl V. Deicas, by affixing his signature hereon, agrees to the following:

1. Respondent is aware of his right to be represented by counsel and of his 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 provided the Board accepts the terms and conditions set forth herein.
3. Respondent admits that he purported to provide engineering services for at least eight (8) projects in the State of West Virginia with an expired and therefore invalid professional engineering license by permitting Mr. Berardelli to electronically affix his expired seal to those projects.
4. Respondent admits that by permitting Mr. Berardelli to affix his expired West Virginia seal to at least eight (8) projects in the State of West Virginia he has misused a West Virginia seal.
5. Respondent admits that by permitting Mr. Berardelli to affix the expired West Virginia seal that had previously been issued to Respondent to the eight (8) projects which he had not personally designed and were not under his direct supervision constitutes conduct likely to deceive, defraud or harm the public.

6. Respondent 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.
7. Respondent acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board actions on Complaint Number C2010-07. This paragraph is binding on the participants even in the event that the Board does not approve this Consent Order.
8. 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 or in conjunction with consideration of this Consent Order.
9. This Consent Order, once accepted by the Board, 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. Should the Board not approve this Consent Order, Respondent 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.

11. Respondent acknowledges that the Board may reject this proposal, complete the hearing, and, upon adjudication, impose such sanctions of a disciplinary nature as it deems appropriate.
12. 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).
13. 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, and upon entry of this Consent Order by this tribunal,



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. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Thousand Dollars (\$2,000.00), which is the eight (8) counts of offering to practice engineering in the State of West Virginia without a valid license at Two Hundred Fifty Dollars (\$250.00) per violation.
3. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Thousand Dollars (\$2,000.00) for engaging in conduct likely to deceive or defraud the public.
4. The Board **ORDERS** Respondent to pay a civil penalty in the amount of One Thousand Dollars (\$1,000.00) for misuse of a West Virginia Professional Engineering seal.
5. The Board further **ORDERS** that an application for reinstatement by Respondent not be considered for one (1) year from the date of entry of this Order, at which time Respondent must be in full compliance with this Consent Order and otherwise meet the requirements for reinstatement.
6. The Board **ORDERS** that Respondent shall return his seal to the Board until such time that his license is reinstated.
7. The civil penalties imposed herein totaling Five Thousand Dollars (\$5,000.00) 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 may result in further action by the Board.

8. The Board **ORDERS** Respondent to pay administrative costs in the amount of Eight Hundred, Sixty-six Dollars and Twenty-five Cents (\$866.25).
9. The administrative costs imposed herein totaling Eight Hundred, Sixty-six Dollars and Twenty-five Cents (\$866.25) 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 for transfer to the general fund of the State of West Virginia upon receipt. Failure to remit the payment of these administrative costs within the prescribed time period may result in further action by the Board.
10. 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).
11. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
12. 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.

13. 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 (\$5,866.25), 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.
14. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalties and administrative costs agreed to herein.
15. 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:


  
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CARL V. DEICAS

3-17-10  
DATE

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

4<sup>th</sup> day of May, 2010.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

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

PREPARED BY:

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