

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE:       Hinkle Engineering, Inc.

C-2005-8

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 Hinkle Engineering, Inc. 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. David W. Hinkle is president of Hinkle Engineering, Inc., an engineering firm in Darien, Illinois, and holds a valid West Virginia Engineering license, #010563.
3. This Complaint was initiated by the Board on September 19, 2005, and was served upon Respondent by certified mail.
4. This complaint alleged that Hinkle Engineering performed engineering work in West Virginia without the required certificate of authorization (COA).
5. The action complained of was work on a conference center, inadvertently referred to as a convention center in the complaint, located in Bridgeport, West Virginia .

6. Mr. Hinkle's response to the Board is dated September 28, 2005, and information contained therein has been relied upon by the Board in entering into this consent order.
7. In said Response, Mr. Hinkle admits his firm performed the work without the required COA, which he states was due to confusion regarding information received from the Secretary of State's office about the COA requirement.
8. The Board finds that such confusion was not well-founded since, in the Board's letter to Mr. Hinkle of December 18, 2003, stating he had been approved for reinstatement, it clearly states "that companies offering or attempting to offer engineering services in West Virginia must hold a Certificate of Authorization (COA) issued by this office. This authorization is completely separate from the business license obtained from the WV Secretary of State."
9. The Board's investigator spoke with Mr. Hinkle on or about September 1, 2005, regarding the required COA.
10. Hinkle Engineering, Inc., applied for a COA on September 6, 2005, and the COA was subsequently issued.
11. Mr. Hinkle's prompt cooperation with the Board has mitigated his firm's culpability regarding the charge of practicing engineering without a COA.
12. Respondent 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.
13. 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

14. West Virginia Code §30-13-17 allows a firm to practice or offer to practice engineering if it has been issued a certificate of authorization by the Board.
15. West Virginia Code §30-13-21(a)(4) authorizes the Board to discipline any person or firm practicing or offering to practice engineering in the State of West Virginia who has "(f)ailed to comply with any of the provisions of this article ..."
16. 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).
17. Practicing engineering without a COA, 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 \$5000.00. 7 C.S.R. 1.15.1.
18. Each day of continued violation may constitute a separate offense. 7 C.S.R. 1.15.3.

### CONSENT OF DAVID HINKLE

David Hinkle, President of Hinkle Engineering, Inc., by affixing his signature hereon, agrees to the following:

19. Mr. Hinkle 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.
20. Mr. Hinkle intelligently and voluntarily waives Respondent Hinkle Engineering, Inc.'s right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.



21. Respondent agrees to accept an informal settlement of Complaint 2005-8.
22. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
23. 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.
24. Respondent acknowledges that proof of any misstatement or misrepresentation made by Hinkle Engineering, Inc., in its Response, its application for COA, or 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, 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**

25. 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).
26. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a certification of authorization.
27. 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 Treasurer of the State Virginia directly or to the W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt.
28. Respondent acknowledges this Consent Order 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 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).

29. Any violation of the terms of this Consent Order shall be immediate cause for a hearing and further disciplinary action by the Board.
30. 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.

WEST VIRGINIA STATE BOARD OF REGISTRATION  
FOR PROFESSIONAL ENGINEERS

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

Date: 11/2/05

  
HINKLE ENGINEERING, INC.,  
by DAVID W. HINKLE, P.E., its President

Date: 10/25/05