

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

**IN RE: WILLIAM D. SWECKER
 SWECKER ENGINEERING**

C2009-13

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers (hereinafter "Board") by Leonard J. Timms, P.E., its president, and its attorney, Nicole A. Cofer, Assistant Attorney General for the State of West Virginia for the purpose of agreeing to disciplinary action to be taken against William D. Swecker and Swecker Engineering (hereinafter "Respondents"). As reflected in this document, the parties have reached an agreement concerning the proper disposition of the above-referenced 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 in the State of West Virginia.
2. Respondent is a licensed professional engineer in the State of West Virginia holding license number 5953.
3. Respondent understood that the Randolph County Commission (hereinafter "Commission") had advertised for

architectural/engineering services using the 5G process but were receiving little to no response.

4. Respondent states that one of the Commissioners approached him about applying for the project with the idea that they would provide the floor plan and building concept and that Duane Trippett, an unlicensed architect, would be available to help him with the project.
5. Respondent was aware that Mr. Trippett was not a licensed architect in the State of West Virginia; and, according to Respondent, Mr. Trippett worked with the Commission on various small projects throughout the county and has several years of experience in architecture.
6. Respondent sealed the architectural drawings of Mr. Trippett with his West Virginia Professional Engineers seal.
7. While Respondent may have experience with buildings of this particular size and shape and is knowledgeable of the Life Safety Codes, Respondent is not a licensed architect in the State of West Virginia or any other state.
8. On March 24, 2009, the West Virginia Board of Registration for Professional Engineers (hereinafter "Board") initiated Complaint number C2009-13 for practicing engineering/architecture outside of his education or experience.

9. Respondent fully admits that while he may have some experience with buildings of similar size and knowledge of Life Safety Codes, he is not an architect nor was he trained to function as such.
10. Respondent's prompt response in connection with this Complaint mitigates Respondent's culpability regarding the admitted violations of West Virginia Engineering Law; therefore, based on the foregoing, the Board, in its discretion, will not assess administrative costs according to W. Va. Code R § 7-1-14.4.
11. Respondent has waived his right to a hearing on this matter and other rights set forth in W. Va. Code § 30-13-17 *et seq.* and the procedural rules of the Board.

CONCLUSIONS OF LAW

1. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a license or impose a civil penalty upon any licensee who has "[s]igned or affixed the professional engineer's seal or permitted the professional engineer's seal or signature to be affixed to any specifications, reports, drawings, plans, design information, construction documents or calculations or revisions which have not been prepared or completely checked by the professional engineer or

under the professional engineer's direct supervision or control." W.Va. Code § 30-13-21(a)(10).

2. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a licensee or impose a civil penalty upon any licensee who has "[f]ailed 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).
3. The West Virginia Code R. § 7-1-12.4(a) provides that "[r]egistrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering involved."
4. The West Virginia Code R. § 7-1-12.4(b) provides that "[r]egistrants shall not affix their signatures or seals to any plans or documents except in accordance with 30-13-1 *et seq.* and these rules."
5. The Board is authorized to assess civil penalties against any person who violates any provisions of this article or any rule promulgated by this 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).
6. Misuse of a West Virginia Professional Engineer seal, to which Respondent has admitted herein, is an action that could subject Respondent to discipline by the Board, including a civil penalty up to \$5,000.00. W.Va. Code R § 7-1-15.1.

7. Each day of continued violation may constitute a separate offense.

W.Va. Code R § 7-1-15.3.

CONSENT OF RESPONDENT

William D. Swecker, individually and on behalf of Swecker Engineering,
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 and Respondent intelligently and voluntarily waives his right to do so.
2. Respondent admits that he was not at any relevant time, and is not currently, a licensed architect.
3. Respondent admits that he sealed an architectural drawing with his professional engineering seal issued to him by the State of West Virginia.
4. Respondent accepts the findings set forth above and consents to the entry of this Consent Order freely and voluntarily and without duress, restraint or compulsion.
5. 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.

6. This Consent Order is executed by Respondent for the purposes of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning the Respondent prior to or in conjunction with consideration of this Consent Order. Furthermore, should the Consent Order not be accepted by the Board, it is agreed that presentation to and by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.
7. Respondent acknowledges 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).
8. 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 No. C2009-13, the summary revocation of any license or certificate of

authorization issued to the 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.

9. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.

ORDER

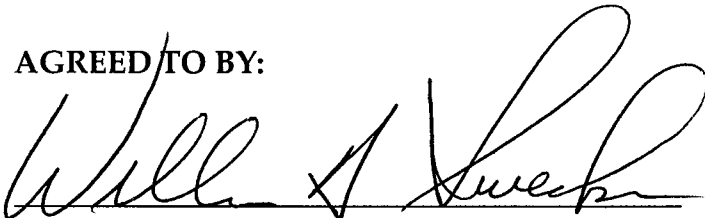
1. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code § 30-13-22(b).
2. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for practicing outside of his education or experience and misuse of a professional engineer seal.
3. The civil penalty imposed herein must be paid within thirty (30) days of the date Respondent receives notice of the Board's entering of this **CONSENT ORDER**, 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. Respondent acknowledges that 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 NCEES.

5. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
6. 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 to enforce the terms of this Consent Order.
7. 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 the payment agreed to herein, Five Hundred Dollars (\$500.00), 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.

8. 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.
9. 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:

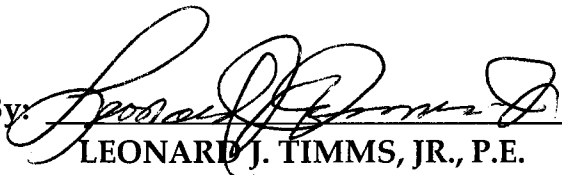

WILLIAM D. SWECKER

July 7, 2009
DATE

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

21 day of July, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: 
LEONARD J. TIMMS, JR., P.E.
BOARD PRESIDENT

July 21, 2009
DATE