

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE:           Green & Associates, LLC

C-2006-02

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 Green & Associates, LLC. 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 engineering pursuant to West Virginia Code §30-13-1 *et seq.*
2.     John M. Green is the owner and president of Green & Associates, LLC., a design, engineering and surveying firm in St. Clairsville, Ohio, which is organized under the laws of the State of Ohio.
3.     This complaint was initiated by the Board on January 24, 2006, and was served upon Respondent by certified mail.
4.     This complaint alleged that Green & Associates offered to practice engineering in West Virginia without the required certificate of authorization (COA).
5.     The offer complained of was a response to an advertised request for engineering services by the City of Follansbee, West Virginia.

6. Mr. Green on behalf of Respondent provided a response to the Board dated February 15, 2006, and has verbally provided other information, all of which has been relied upon by the Board in entering into this consent order.
7. In the written response, Mr. Green admits his firm offered to perform engineering services without the required COA, which Respondent states was a Statement of Qualification or interest to bid, rather than an actual bid on the job in question. Mr. Green then represented this would not happen in the future.
8. Regarding other engineering work in West Virginia, Mr. Green, in the response, admits to having interviewed for a small sewer project in West Virginia and having offered an opinion on the quality of construction of an in-ground pool during a time when Respondent did not have the required COA. Respondent also offered services relating to WV Department of Natural Resources mine reclamation projects and was awarded a WV Department of Highways contract although no work was performed, but Respondent states it held a West Virginia COA at that time.
9. Respondent held a COA in West Virginia for only one year (1994-95) (COA # 00771).
10. Green & Associates, LLC, acknowledges and understands that it must hold the required COA before it can offer engineering services for projects located in West Virginia.
11. Mr. Green's cooperation with this Board has mitigated Respondent's culpability regarding the charge of offering to practice 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 only 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.
19. The Board may consider several factors in determining the amount of the civil penalty. 7 C.S.R. 1.15.4.

### **CONSENT OF JOHN M. GREEN for GREEN & ASSOCIATES**

John M. Green, Owner and President of Green & Associates, LLC, by affixing his signature hereon, agrees to the following:

20. Mr. Green acknowledges he is aware of the firm's 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 the firm's right to do so.
21. Mr. Green intelligently and voluntarily waives Respondent Green & Associates' right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
22. Respondent agrees to accept an informal settlement of Complaint 2006-02.
23. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
24. 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.
25. Green & Associates, LLC, will apply for a COA before any practice or offer to practice engineering in the State of West Virginia.
26. Respondent acknowledges that proof of any misstatement or misrepresentation made by Green & Associates in its Response, any future application for COA, or any 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.

27. Respondent acknowledges and understands that it is responsible for compliance with all business laws of the State of West Virginia and that the West Virginia Board of Registration for Professional Engineers has no jurisdiction over and is making no findings or representations regarding any other business licensures and related matters required to do business in the State of West Virginia which are outside the jurisdiction of the Board.


### **ORDER**

28. 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).
29. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for offering to practice engineering without a certification of authorization.
30. 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 W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt.
31. 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 and/or the documents 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).

32. Any violation of the terms of this Consent Order shall be immediate cause for a hearing and further disciplinary action by the Board.
33. 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:   
LEONARD J. TIMMS, P.E.  
Board President

Date: 5/11/06

**RECEIVED**

MAY 12 2006

WV REGISTRATION BOARD

  
GREEN & ASSOCIATES, LLC,  
by JOHN M. GREEN, its Owner and President

Date: 06/24/06