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BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: CHARLES G. EVANS

C2011-09

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 Charles G. Evans (hereinafter "the Respondent"). As contained herein, the parties have reached an agreement concerning the proper disposition of this matter, and the Board, upon approval of the same, does hereby **FIND** the following:

1. The Board is a State entity, created by *W. Va. Code § 30-13-1 et seq.*, and is empowered to regulate the practice of engineering pursuant to the same.
2. Respondent Charles G. Evans ("Respondent") is a licensed Professional Engineer in Pennsylvania, among other jurisdictions, including North Carolina and the State of West Virginia, where he obtained License Number 09538 in 1984.
3. Respondent, on his 2010-2011 renewal application, answered the following question in the negative:

HAVE YOU BEEN SUBJECT TO DISCIPLINARY ACTION
OR ANY INVESTIGATION BY ANY LOCAL, STATE OR
NATIONAL REGULATORY BOARD (INCLUDING WV) OR
HAVE YOU BEEN CONVICTED OF A MISDEMEANOR OR
FELONY SINCE YOUR LAST WV PE RENEWAL?

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4. However, Respondent had been disciplined by the State of North Carolina, for which Respondent agreed to voluntarily surrender his Professional Engineering license in that state.
 5. At its regular meeting, the Board initiated Complaint Number C2011-09 which was filed on March 28, 2011.
 6. Respondent did not respond to the Complaint, which failure is deemed an admission of all the factual allegations contained in the Complaint.
 7. After the matter was noticed for hearing, Respondent notified the Board, stating that he deemed himself retired and wanted to resolve this matter.
 8. Respondent admits that the proper answer to the question posed on his renewal application, set forth above, was "YES."
 9. Respondent admits that the effect of denying the question posed on his renewal application, as stated above, constituted misinformation to the Board in violation of *W. Va. Code § 30-13(a)12*.
 10. The Board has considered the following factors in determining the amount of the civil penalty to be assessed: (1) the circumstances leading to the violation; (2) Respondent's failure to respond to the Complaint until it was noticed for hearing; and (3) the Respondent's decades of licensure in the State of West Virginia without any disciplinary action.

11. Respondent's subsequent prompt attention to the Complaint and admissions regarding same served to minimize the costs incurred by the Board. Therefore, the Board, in its discretion, will not assess administrative costs although the Board finds that it incurred such costs and it is within its power to assess such costs as set forth in *W. Va. Code* § 30-13-21(d)(4) and *W. Va. Code R.* § 7-1-14.4.
12. To the extent that this Consent Order is approved by the Board, the Respondent waives 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

13. The Board may take disciplinary action against any person who perpetrated a fraud or deceit in obtaining or renewing a professional engineering license. *W. Va. Code* § 30-13-21(a)(1).
14. The Board may take disciplinary action against any person who provided false information to the Board. *W. Va. Code* § 30-13-21(a)(12).
15. Fraud, deceit, misrepresentation, or misinformation to the Board 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.
16. The failure to file a response to a complaint shall be deemed an admission of the factual allegations contained therein. *W. Va. Code R.* § 7-2-2.5.
17. Each day of continued violation may constitute a separate offense. *W. Va. Code R.* § 7-1-15.3.

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18. In determining the amount of a civil penalty to be assessed, the Board may consider such factors as:
- (a). Whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b). The circumstances leading to the violation;
 - (c). The nature and severity of the violation and the risk of harm to the public;
 - (d). The history of previous violations;
 - (e). The extent to which the cited person or firm has cooperated with the Board and the Board's investigation;
 - (f). The economic benefits gained by the violator as a result of the noncompliance;
 - (g). The interest of the public; and
 - (h). Other matters as may be appropriate.

W. Va. Code R. § 7-1-15.4.

CONSENT OF RESPONDENT

The Respondent, by affixing his signature hereon, agrees to the following:

19. Respondent is aware of his right to be represented by counsel and to pursue this matter through appropriate administrative and/or Court procedures, but Respondent intelligently and voluntarily waives his rights to do so in the event that this Consent Order is approved by the Board.
20. Respondent intelligently and voluntarily waives his right to a formal hearing before the Board in this matter provided that the Board accepts the terms and conditions set forth herein.

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21. Respondent accepts the findings set forth above, agrees to settle this matter based on one (1) count of providing misinformation to the Board in violation of *W. Va. Code* § 30-13-21(a)(12), and consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint, or compulsion.
22. Respondent acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board action on Complaint Number C2011-09. This paragraph is binding on the parties hereto, even in the event that the Board does not approve this Consent Order.
23. 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 material concerning Respondent prior to or in conjunction with consideration of this Consent Order. This paragraph is binding upon the parties even if the Board does not approve this Consent Order.
24. Should the Board not approve this Consent Order, Respondent waives any objections to the Board or any of its members participating in the adjudication of this matter. This paragraph is binding upon the parties even if the Board does not approve this Consent Order.
25. 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.

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26. Upon acceptance by the Board, 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 action between the parties except an action to enforce the terms of this Consent Order.
27. Respondent understands that the complaint and perhaps other documents related to the complaint are public records which must be made available upon legal request in accordance with the state's Freedom of Information Act.
28. Respondent 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).
29. 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, 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

30. On the basis of the foregoing, and upon entry of this Consent Order, the Board hereby **ORDERS** that this Consent Order shall serve as settlement and compromise of Complaint number C2011-09 pursuant to *W. Va. Code § 30-13-22(b)*.

31. The Board **ORDERS** that Respondent surrender his West Virginia professional engineering seal within thirty days (30 days) of the date Respondent receives notice of the Board President's signature hereon.
32. The Board further **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for one (1) count of misinformation to the Board as admitted to herein.
33. The Board further **ORDERS** Respondent to pay the civil penalty imposed herein, totaling Two Hundred Fifty Dollars (\$250.00), within thirty days (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 this civil penalty within the prescribed time period will result in further disciplinary action.
34. The sum and substance of the Complaint and this agreement in part or in their entirety shall 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).
35. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
36. If the civil penalty imposed herein is not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to

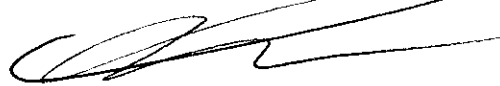
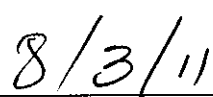
Respondent upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed upon herein (\$250.00), together with pre-judgment interest from the date of the President's signature hereon, post-judgment interest from the date of entry of the Judgment Order and all costs of any enforcement action(s), which judgment shall be fully executable in accordance with applicable law.

37. This matter shall be closed upon execution of this Consent Order by both parties, the surrender of Respondent's West Virginia seal, and the full payment of the civil penalty agreed to herein.
38. 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:

 _____ CHARLES G. EVANS	 _____ DATE
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ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 5th day of ~~July~~ AUGUST, 2011.

BY:  _____ EDWARD L. ROBINSON, P.E. BOARD PRESIDENT for the WEST VIRGINIA STATE BOARD	 _____ DATE
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**OF REGISTRATION FOR
PROFESSIONAL ENGINEERS**

PREPARED BY:

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Emailed to Respondent 7/6/2011 12:22 PM