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WV PE BOARD

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: SAMUEL A. WOOD

C2013-01

**CONSENT ORDER**

Comes now the West Virginia State Board of Registration for Professional Engineers (hereinafter "the Board") by Edward L. Robinson, P.E., its President, for the purpose of agreeing to disciplinary action to be taken against Samuel E. Wood (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 allegations set forth in this Complaint are matters that are within the jurisdiction of this Board, which is a State entity required and authorized to regulate the practice of engineering in West Virginia pursuant to West Virginia Code § 30-13-1 *et seq.*
2. Respondent Samuel A. Wood is a licensed professional engineer in the State of West Virginia, holding PE license number 011362.
3. The Board-initiated complaint was filed and served by certified mail on September 25, 2012, citing misuse of seal.
4. A response to the Complaint was served on October 12, 2012, by the Respondent, and Respondent subsequently sought the advice of counsel.
5. The Complaint was based on a house inspection in Kentucky for which Respondent issued a report sealed with his West Virginia P.E. seal.
6. This was also the basis for disciplinary action by the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, as documented by an Agreed Order of Settlement and Injunction issued by the Franklin Circuit Court in the Commonwealth of Kentucky on August 2, 2012.

7. Respondent self-reported the discipline by the Kentucky board, admitted having used his West Virginia seal on the report of the house located in Kentucky, and responded that the use of his West Virginia seal was further evidence of the fact that he did not try to deceive anyone concerning the fact that he was not licensed in Kentucky.
8. The Board finds that using a West Virginia seal on a project located in another State is grounds for disciplinary action regardless of whether that state could or should have taken action or did take action against the West Virginia professional engineer.
9. The Board finds that Respondent's use of this West Virginia seal on engineering work requiring the seal of a professional engineer in the State of Kentucky was an unauthorized use of his West Virginia seal.
10. In determining the amount of a civil penalty to be assessed, the Board has considered the following factors: the circumstances leading to the violation; no history of previous violations; the extent to which the Respondent self-reported the facts giving rise to the discipline and cooperated with the Board in resolving this matter; and other appropriate matters.
11. The Board incurred administrative costs in connection with the investigation, but, in its discretion, agrees to resolve this Complaint without the assessment of administrative costs.

#### **CONCLUSIONS OF LAW**

12. The Board is the State entity required and authorized to regulate the practice of engineering in the State of West Virginia. W. Va. Code § 30-13-1 *et seq.*

13. All registrants are required to be familiar with West Virginia Code § 30-13-1 *et seq.*, this rule, and all applicable laws relating to the practice of engineering. W. Va. Code R. § 7-1-12.2(a).
14. A certificate of registration issued by the Board grants the recipient authority to practice in this state. West Virginia Code § 30-13-16(a) [emphasis added].
15. Registrants shall obtain a seal with "the legend 'registered professional engineer, state of West Virginia'" which is to be applied to work done as a professional engineer in the State of West Virginia. West Virginia Code § 30-13-16(c).
16. Inasmuch as registration in West Virginia only authorizes the registrant to practice engineering in this State, implicit in West Virginia Code § 30-13-16 is the understanding that a registrant's West Virginia seal shall not be used outside this jurisdiction.
17. 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 failed to comply with any provision of West Virginia Code § 30-13-1 *et seq.*
18. 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).
19. A general offense (violation of applicable statute or rules, including West Virginia Code § 30-13-21 or the Rules of Professional Responsibility) subjects a Respondent 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.

20. 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**

Samuel A. Wood, individually, by affixing his signature hereon, agrees to the following:

21. Respondent has been advised by his counsel of his right to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently and voluntarily waives his right to do so if the Board accepts the terms and conditions set forth herein.
22. 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.
23. Respondent acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of the six-month time limit set forth in West Virginia Code § 30-13-22(b) for the disposition of complaints. This paragraph is binding on the parties even in the event that the Board does not approve this Consent Order.

24. Respondent acknowledges that the Board may reject this proposal, notice and hold a hearing, and, upon adjudication, impose such sanctions of a disciplinary nature as it deems appropriate.
25. 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 on the parties even if the Board does not approve this Consent Order.
26. 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 constitute a disciplinary action that 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).
27. Respondent acknowledges that proof of any misstatement or misrepresentation made in connection with this matter may 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**


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 the misuse of his professional engineering seal.
3. The civil penalty shall be paid within thirty (30) days of the date of entry of this Consent Order, evidenced by the date of the President's signature, made payable to the W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt.
4. The Board **ORDERS** that the untimely payment of the civil penalty imposed herein may result in the reinstatement of this Complaint and/or further disciplinary action by the Board.
5. The Board **ORDERS** this Consent Order and the underlying Complaint to 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).
6. 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 to herein (\$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.
7. 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 by the Board to enforce the terms of this Consent Order. This shall not prohibit the Board from considering this

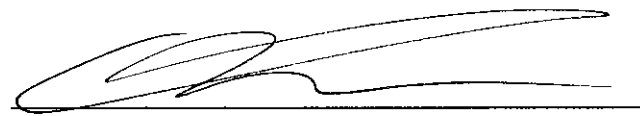
disciplinary action or the circumstances giving rise to the same with regard to any future disciplinary matter involving Respondent which may be before this Board.

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:**

  
**SAMUEL A. WOOD**  
2-21-2013  
**DATE**

**Entered into the records of the WEST VIRGINIA STATE BOARD OF REGISTRATION  
FOR PROFESSIONAL ENGINEERS by:**

  
**EDWARD L. ROBINSON, P.E.**  
**BOARD PRESIDENT**  
2/26/13  
**DATE**

**THIS CONSENT ORDER PREPARED BY:**

**DEBRA L. HAMILTON  
DEPUTY ATTORNEY GENERAL  
STATE CAPITOL, ROOM 26-E  
CHARLESTON, WV 25305  
304-558-2021**