

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

IN RE: R & E Electric Company, Inc.

C2006-12

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 R & E Electric Company, Inc., [hereinafter at times R & E Electric]. 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. Kevin Rogers is president of R & E Electric Company, Inc., a West Virginia corporation with offices in Morgantown and Beckley, West Virginia.
3. By its letterhead and by other means, R & E Electric represents it is in the business of "engineering, automation and installation"
4. This Complaint was initiated by the Board on May 8, 2006, and was served upon Respondent by certified mail.
5. The Complaint alleged that R & E Electric offered to perform engineering work in West Virginia without the required certificate of authorization (COA).
6. The action complained of was engineering work performed by R & E Electric for five different entities during the past two years without a licensed engineer on staff and

without the required certificate of authorization, for which respondent did not qualify.

7. Prior to the filing of this Complaint, Mr. Rogers cooperated with this Board, providing the names of the customers and confirming respondent's intent to hire a licensed professional engineer in correspondence to the Board dated April 13, 2006.
8. The information contained therein has been relied upon by the Board in entering into this consent order.
9. Respondent admits R & E Electric, without the required COA, performed work which could reasonably be deemed engineering work in West Virginia and offered to perform engineering work as represented on its letterhead and business cards.
10. Respondent's work which the parties agree is engineering work includes the engineering, design, planning and construction oversight of electrical systems for power and coal companies such as the design of control systems, the sizing of electrical equipment, and wire and conduit sizing.
11. Almost simultaneously with the filing of this Complaint, and as a result of communications between Board and Respondent agreeing that the work being performed by Respondent could be reasonably deemed engineering work, Respondent hired a professional engineer.
12. Having a P.E. on staff makes Respondent eligible to apply for a certificate of authorization and to practice engineering in West Virginia.
13. R & E Electric's prompt cooperation with the Board has mitigated the company's culpability regarding the charge of practicing and offering to practice engineering without a COA.
14. 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.
15. 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

16. West Virginia engineering law defines the “practice of engineering” as any service or creative work ... which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as ***consultation, investigation, evaluation, planning and design of engineering works and systems***; planning and use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and ***the review of construction for the purpose of assuring compliance with drawings and specifications*** any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, ***electrical***, hydraulic, pneumatic or thermal ***nature***, insofar as they involve safeguarding life, health or property, ***and including such other professional services as may be necessary to the planning, progress and completion of any engineering services*** West Virginia Code §30-13-3(e) (emphasis added).
17. West Virginia engineering law allows a firm to practice or offer to practice engineering only upon the issuance a certificate of authorization by the Board, which cannot be issued without a professional engineer being named as the engineer in responsible charge. West Virginia Code §30-13-17.
18. West Virginia Code §30-13-21(b) authorizes the Board 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.” See *also* W. Va. Code §30-13-21(d)(4).

19. Practicing or offering to practice engineering without a COA, to which Respondent has admitted herein, 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.
20. Each day of continued violation may constitute a separate offense. 7 C.S.R. 1.15.3.

CONSENT OF R & E ELECTRIC

Kevin Rogers, President of R & E Electric, by affixing his signature hereon, agrees to the following individually and on behalf of Respondent company:

21. Respondent understands this settlement is in part based on the Board’s reliance on the information contained in Mr. Rogers’ correspondence of April 13, 2006, which information includes an accurate and comprehensive listing of work performed by Respondent in West Virginia from April 2004 to recent date, some of which the parties agreed was engineering work.
22. R & E Electric is represented by counsel, who has advised Respondent of its option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently, knowingly and voluntarily waives his right to do so.
23. Mr. Rogers intelligently and voluntarily waives Respondent R & E Electric’s right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
24. Respondent agrees to accept an informal settlement of Complaint 2006-12.

25. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
26. 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.
27. Respondent acknowledges that proof of any misstatement or misrepresentation made by R & E Electric herein, any application for COA, or any 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, the summary revocation of any certificate of authorization issued subsequent to the entry of this Order, 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.

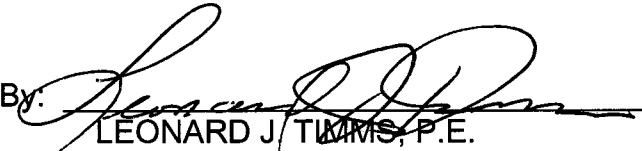
ORDER

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 practicing or offering to practice engineering without a certificate 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 will not practice or offer to practice engineering in the State of West Virginia unless and until it holds a valid Certificate of Authorization issued by this Board, which COA shall not issue until Respondent has qualified for same and paid

the civil penalty imposed herein.

32. 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 in part or in its 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).
33. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of Respondent's COA and further disciplinary action by the Board.
34. 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: 8/1/06


R & E ELECTRIC COMPANY, INC.,
by KEVIN ROGERS, its President

Date: 7/25/06