

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: JOHN M. RILEY

C2008-04

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president, and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia (hereinafter the "Board") and John M. Riley and his legal counsel for the purpose of agreeing to disciplinary action to be taken against John M. Riley [hereinafter at times referred to as 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 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. John M. Riley is a professional engineer licensed in the State of North Carolina, as well as other states, including West Virginia (P.E. License No. 10411).
3. As a result of communication initiated by the North Carolina Board of Examiners for Engineers and Surveyors to this Board, it was learned that an investigation had been initiated against Respondent by the North Carolina licensing board, of which Respondent had received notice from the North Carolina Board dated April 2, 2007.
4. Despite that investigation, Respondent stated on his annual renewal form for 2007-2008 submitted electronically on June 5, 2007, that he had not "been subject to disciplinary action or investigation by another jurisdiction" since his last WV PE renewal.
5. The renewal form states that each applicant for license renewal must answer that and other questions and "certify, under penalty of false swearing that these answers are true and correct."

6. The Board-initiated complaint was filed on September 11, 2007, and a response was filed by Respondent's counsel on September 27, 2007.
7. The response indicated that Respondent was also the subject of an investigation by the North Carolina licensing board in 2006, although Respondent's 2006-2007 renewal form responds to the same question in the negative.
8. Respondent admits he provided misinformation to the Board but states it was based on a misunderstanding or misreading of the information sought on the renewal form.
9. The Board finds that providing information to the Board that is false and incorrect is a serious matter for which Respondent provided no meaningful defense or mitigating factors persuasive to the Board.
10. Respondent has waived 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.
11. The Board incurred at least \$1000.00 of expenses in connection with this Complaint and determines it is reasonable to assess administrative costs in this matter in the amount of \$500.00.

CONCLUSIONS OF LAW

12. Providing misinformation to the Board is a violation of West Virginia engineering law, for which the Board is authorized to take disciplinary action. W. Va. Code §30-13-21(a)(12).
13. 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." West Virginia Code §30-13-21(b).
14. Providing misinformation to the Board, to which Respondent has admitted herein as to two counts, is an action that would subject a person to discipline by the Board, including a civil penalty up to \$15,000.00. 7 CSR 1.15.1.

CONSENT OF JOHN M. RILEY

John M. Riley, by affixing his signature hereon, agrees to the following:

15. Respondent is represented by counsel and has been advised of his option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently and voluntarily waives his right to do so.
16. Respondent intelligently and voluntarily waives his right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
17. Respondent admits he provided misinformation to the Board in violation of West Virginia engineering law on his 2006-07 renewal form and on his 2007-08 renewal form.
18. Respondent accepts the findings set forth above and agrees to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
19. Respondent agrees to surrender his West Virginia PE license and to not apply for or otherwise attempt reinstatement until the 2010-11 licensure year.
20. Respondent acknowledges that the Board, in considering any future application for reinstatement by him, may take into consideration this disciplinary proceeding and may deny such reinstatement based solely on this disciplinary proceeding.
21. Respondent acknowledges that any future application will be denied if Respondent has had any disciplinary action taken against him by any professional licensing board in any other jurisdiction during the interim, with the exclusion of a reciprocal enforcement action which may be taken by a licensing board based exclusively on this West Virginia action.

22. 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.
23. Respondent acknowledges that proof of any further misstatement or misrepresentation made in connection with this matter will result in the rescission of this agreement, the reinstatement of this Complaint, and the addition of any other charges which may arise or ensue from additional counts of providing false information to the Board in violation of West Virginia engineering law.
24. Respondent acknowledges this Consent Order, the underlying Complaint, and submissions to this Board by Respondent or his counsel are public records.
25. Respondent agrees that the sum and substance of the Complaint and this Consent Order 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 the National Council of Examiners for Engineering and Surveying (NCEES).

ORDER


26. 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).
27. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars for each of the two counts of providing misinformation to the Board for a total of Five Hundred Dollars (\$500.00), such amount to be transferred upon receipt to the general fund of the State of West Virginia.
28. The Board **ORDERS** Respondent to pay administrative costs in the amount of Five Hundred Dollars (\$500.00), which amount shall be deposited to the appropriate Board account to cover a portion of the costs of this enforcement action.

29. The Board **ORDERS** that Respondent's West Virginia professional engineering license be and hereby is revoked.
30. The Board **ORDERS** Respondent to surrender his West Virginia professional engineering license and to return his engineering seal to the Board within thirty (30) days of the date of the signature of the Board President on this Consent Order.
31. The Board **ORDERS** that Respondent shall not apply for reinstatement of his West Virginia professional engineering license before September 1, 2010.
32. Upon Respondent's application for reinstatement, any reinstatement is within the sole discretion of this Board and may be denied based solely on this disciplinary action or for other good cause apparent to the Board.
33. The Board **ORDERS** that Respondent be and hereby is prohibited from practicing or offering to practice engineering in this State unless and until he is granted reinstatement of his license to practice or offer to practice engineering in West Virginia in accordance with the provisions of this Consent Order.
34. The civil penalties and administrative costs imposed herein may be paid with one check payable to the W. Va. P.E. Board and must be paid within thirty (30) days of the date of the signature of the Board President hereon.
35. The Board **ORDERS** that this Consent Order be published on the Board website, summarized in the next annual newsletter of the Board, and reported to the enforcement exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).
36. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
37. Nothing in this Consent Order may be the subject of any appeal or other civil or administrative action brought by Respondent, although the Board may take such action as may be necessary to enforce the terms of this Consent Order.
38. If the civil penalties and administrative costs 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 payment agreed to herein (\$1,000.00), 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.

39. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalties and administrative costs agreed to herein.
40. 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.

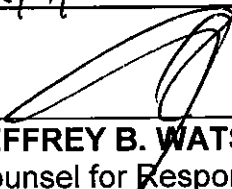
**WEST VIRGINIA STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS**

By: 
LEONARD J. TIMMS, P.E.
Board President

Date: 9/16/08


JOHN M. RILEY, Respondent

Date: 9/4/08


JEFFREY B. WATSON, Esq.
Counsel for Respondent Riley

Date: 9-3-08