

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

IN RE: APEX ENGINEERING

C2009-2

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, Nicole A. Cofer, Assistant Attorney General for the State of West Virginia (herein "the Board") for the purpose of agreeing to disciplinary action to be taken against Apex Engineering [hereinafter at times referred to as Respondent Firm]. 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. Apex Engineering is an S-Corporation organized under the laws of the State of Pennsylvania with its office in Cranberry Township.
3. Gabriel Alexander is the owner of Apex Engineering, and is a professional engineer licensed in the State of Pennsylvania.
4. Gabriel Alexander, as the owner of Respondent Firm, has the power and authority

to make admissions and otherwise act on behalf of Apex Engineering.

5. Respondent Firm offered their practice of engineering in West Virginia by distributing a mailer to "Potential New Clients" including contact information, business cards and a CV indicating his specialization in accident reconstructions and vehicle engineering.
6. The Board was made aware of Respondent Firm's offer to practice engineering in West Virginia and contacted Respondent Firm regarding the same; thereafter, the Board-initiated complaint was filed in July 2008.
7. By letter dated July 21, 2008, Respondent Firm stated that the advertisement mailers were allegedly mistakenly sent to the State of West Virginia and the appropriate licensure is currently being sought.
8. Respondent Firm admits they offered engineering services in the State of West Virginia without a valid COA.
9. Gabriel Alexander has submitted both a personal affidavit as well as the sworn statement of his wife to the Board for their review.
10. Respondent Firm's prompt response in connection with this Complaint mitigates Respondent Firm's culpability regarding the admitted violations of West Virginia engineering law.
11. Based on the foregoing, the Board, in its discretion, will not assess administrative costs although the Board finds it is within its power to assess such costs.
12. Respondent Firm has waived their 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. It is unlawful for any person to practice or offer to practice engineering in the State of West Virginia unless that person is duly registered under the provisions of West Virginia engineering law. West Virginia Code § 30-13-2.
14. West Virginia engineering law allows a firm to practice or offer to practice engineering only upon the issuance of a certificate of authorization by the Board. West Virginia Code § 30-13-17.
15. 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); *see also* W. Va. Code § 30-13-21(d)(4).
16. Practicing or offering to practice engineering without a license, to which Respondent Alexander has admitted herein, is an action that would subject a person to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
17. Practicing or offering to practice engineering without a valid COA, to which Respondent Firm has admitted herein, is an action that could subject a firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
18. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3

CONSENT OF RESPONDENT

Gabriel Alexander, as owner of Apex Engineering, by affixing his signature hereon, agrees to the following on behalf of himself and Respondent firm:

19. Respondent Firm is aware of their right to be represented by counsel and of their option to pursue this matter through appropriate administrative and/or court procedures, but Respondents intelligently and voluntarily waive their right to do so.
20. Respondent Firm intelligently and voluntarily waive their right to service of the Complaint by certified mail and their right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
21. Respondent Firm admits it offered to practice engineering in West Virginia without the required certificate of authorization.
22. Respondent Firm accepts the findings set forth above and consent to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
23. Respondent Firm 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.
24. Respondent Firm 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, the summary revocation of any license or certificate of authorization issued to Respondents, 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

25. 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).
26. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering in West Virginia without a Certificate of Authorization.
27. The civil penalties imposed herein must be paid within thirty (30) days of the date Respondent Firm 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.
28. Respondent Firm will not practice or offer to practice engineering in the State of West Virginia unless and until licensure has issued by this Board, which license and COA shall not issue until Respondent has qualified for same and paid the civil penalties imposed herein.
29. Respondent Firm acknowledges this Consent Order and the underlying Complaint are public records and agree that the sum and substance of the Complaint and this agreement in part or in their entirety may be set forth in Board publications and on the Board website.
30. Any violation of the terms of this Consent Order shall be immediate cause for

further disciplinary action by the Board.

31. This Consent Order constitutes a full and final settlement of this matter, and 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 except an action to enforce the terms of this Consent Order.
32. If the civil penalties 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 (\$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.
33. 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.
34. 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:



GABRIEL ALEXANDER, on
behalf of APEX ENGINEERING

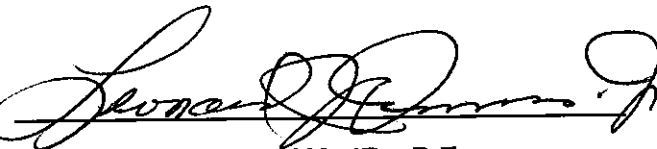
10/22/08

DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this:

4TH day of NOVEMBER, 2008.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: 

LEONARD J. TIMMS JR., P.E.,
BOARD PRESIDENT

Nov 4, 2008

DATE