BEFORE THE WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: ROBERT STEFFEN **C2019-21**

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Bhajan S. Saluja, P.E., its President, (hereinafter "the Board") for the purpose of agreeing to resolve a Complaint seeking disciplinary action against Robert Steffen (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 this agreement, does hereby **FIND** the following:

1. The matters set forth herein are within the jurisdiction of the Board, which is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia.
2. On or about December 26, 2018, Respondent, Robert Steffen, applied for comity. His W.V. P.E. License No. 23457 was activated on February 12, 2019.
3. Respondent, Robert Steffen, currently holds a Certificate of Authorization (COA) # C-06026, and does business as a sole proprietorship, with no employees, and is organized under the laws of the State of North Carolina with his principal place of business in Asheville, North Carolina.
4. On or about February 20, 2019, Respondent signed and sealed structural drawings for a structure located in Berkeley County, West Virginia. On or about February 25, 2019, Respondent submitted said drawings to the Berkeley County Department of Engineering and Building Inspections. The aforesaid actions constitute practicing engineering in West Virginia.
5. Sole proprietorships are required to have a COA to offer engineering services or practice engineering in West Virginia.

6. On February 20, 2019, Respondent did not have a COA. Respondent did not apply for a COA until after the event giving rise to this Complaint.

7. On or about March 4, 2019, the Board became aware of Respondent's February 20, 2019 act of practicing engineering in the state, which resulted in further inquiry by the Board's investigator.

8. Then, on or about March 11, 2019, Respondent applied for a COA. In his COA Application, Respondent answered "No" to the question, "Is this firm currently practicing or even offering to provide engineering services for projects in WV?"

9. The aforesaid two acts are the basis of the Board's Complaint which set forth allegations that Respondent had practiced engineering in West Virginia without the required COA, and had, or attempted to, perpetrate fraud and deceit in obtaining a Certificate of Authorization

10. Respondent's COA was issued on March 11, 2019.

11. The Board initiated Complaint Number C2019-21 at its regular meeting on March 19, 2019, which was filed and served on March 27, 2019.

12. On July 12, 2019, the Board was informed that Ms. Charlotte H. Norris, Esquire and Mr. Charles Gould, Esquire of Jenkins Fenstermaker, PLLC would act as Respondent's counsel.

13. On July 17, 2019, a Response was filed on behalf of Respondent.

14. Respondent and the Board agreed to settle this matter, Respondent would forego his right to an administrative hearing and his right to appeal, and the Board will proceed against Respondent on the following two charges: one count of practicing engineering without the required COA; and one count of providing misinformation to the Board.

15. The Board has considered the following factors in reaching this settlement: there was no risk of harm to the public; the violations did not pose harm to the public; Respondent applied for and received a COA and was in good standing with the Board prior to the

initiation of this Complaint; and Respondent cooperated somewhat in the resolution of this Complaint.

16. The Board, in its discretion, will not assess administrative costs although it is within its power to assess such costs and administrative costs were incurred in the investigation, initiation and resolution of this complaint.

CONCLUSIONS OF LAW

17. Robert Steffen, Respondent, has the power and authority to make admissions, and otherwise act on his own behalf, and he makes such admissions, freely, voluntarily, and without any threat of harm or act of coercion, and after consulting with his counsel, the law firm of Jenkins Fenstermaker, PLLC.

18. At all times material hereto, Respondent admits he was acting in his individual capacity, did not have any employees, and was not acting as a separate corporate or partnership entity. Therefore, Respondent was acting as a sole proprietorship when he provided engineering services. W. Va. Code R. §7-1-11.2(a).

19. Sole proprietorships are required to have a COA to offer engineering services or practice engineering in West Virginia. W. Va. Code §30-13-17.

20. Respondent admits that he did not have a COA at the time he provided the aforesaid engineering services.

21. Based on the findings of fact set forth above, and the legal citations set forth herein, Respondent admits that he violated W. Va. Code §30-13-17 when Respondent provided engineering services without the required COA.

22. Practicing engineering, and/or offering to practice engineering as defined by W. Va. Code §30-13-3(e), without a Certificate of Authorization is an action that may subject a person or firm to discipline by the Board, including a civil penalty up to Five Thousand Dollars ($5,000.00) for each offense. W.Va. Code R. §7-1-15.1.

23. It is unlawful for any person to provide false testimony or information to the Board, in violation of the provisions of West Virginia engineering law. W. Va. Code §30-13-21(a)(12).

24. The provisions of W. Va. Code §30-13-21(a) are applicable as appropriate to unlicensed persons and firms. W. Va. Code §30-13-21(b) and (d).

25. Providing misinformation to the Board may subject any person or firm to discipline by the Board, including a civil penalty up to Fifteen Thousand dollars ($15,000.00) for each offense. W. Va. Code R. §7-1-15.1.

26. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who has failed to comply with any of the provisions of this article or any of the rules promulgated under it. W. Va. Code §30-13-21(a)(4).

27. 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); see also W. Va. Code §30-13-21(d)(4), and W.Va. Code R. §7-1-15.

28. In determining the amount of a civil penalty to be assessed, the Board may consider such factors as the circumstances leading to the violation; the nature and severity of the violation and the risk of harm to the public; the extent to which the cited person or firm has cooperated with the Board and the Board's investigation; and other matters as may be appropriate. W. Va. Code R. §7-1-15.4.

29. The assessment of administrative costs is within the Board's sole discretion. W. Va. Code §30-13-21(d)(4) and W. Va. Code R. §7-1-14.4.

CONSENT OF RESPONDENT

Mr. Robert Steffen, Respondent, by affixing his signature hereon, agrees to the following:

30. Respondent is aware of his rights to be represented by counsel in this matter, and to pursue this matter through appropriate administrative and/or court procedures, including his right to a formal hearing before the Board, and said Respondent, after having the opportunity to consult with his counsel, Jenkins Fenstermaker, PLLC, and Ms. Charlotte H. Norris, Esquire, and Mr. Charles Gould, Esquire, intelligently and voluntarily, enters into this Consent Order to resolve Complaint, C2019-21; provided the Board accepts the terms and conditions set forth in this Consent Order.

31. Respondent admits that, although his West Virginia P.E. license was activated, he did not hold a Certificate of Authorization to practice engineering in the State of West Virginia on February 20, 2019, at which time he provided engineering services. W. Va. Code §30-13-1 *et seq.* and/or the rules promulgated under it.

32. Respondent further admits he provided incorrect information to the Board on his March 11, 2019 application for a COA when he responded in the negative to the question, "Is this firm currently practicing or even offering to provide engineering services for projects in WV?" At the time of his response, Respondent understood that the Board was aware that he had provided engineering services in West Virginia in February, 2019, after his license was activated, and believed that the question pertained to the point in time when he was completing the COA application in March, 2019. In responding to the question as he did, Respondent believed he was answering truthfully and had no intention of committing fraud or deceiving the Board. Respondent understands that his reading of the question was in error and that the giving of incorrect information on an application is deemed equivalent to providing misinformation.

33. 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.

34. 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 materials concerning Respondent's activities in West Virginia in consideration of this Consent Order.

35. 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 Respondent even if the Board does not approve this Consent Order.

36. 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.

37. If the Board does reject this proposal, any admissions made by Respondent herein are deemed null and void.

38. Respondent understands that 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, but that nothing in this Consent Order prohibits the Board from considering this disciplinary action or the circumstances giving rise to same with regard to any future disciplinary matter involving Respondent which may be before this Board.

39. Respondent understands that the Complaint and this Consent Order are public records which, together with other public documents in the file, must be made available upon legal request in accordance with the State's Freedom of Information Act.

40. 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's 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).

41. Respondent acknowledges that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation, non-renewal or non-reinstatement of any Certificate of Authorization issued to Respondent by the Board, and the addition of any other charges which may arise or ensue from Respondent's non-compliance with this Consent Order.

42. Respondent acknowledges that proof of any material 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, non-renewal or non-reinstatement of any Certificate of Authorization issued to Respondent by the Board, 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, and upon entry of this Consent Order, the Board hereby **ORDERS** that this Consent Order shall serve as settlement of Complaint Number C2019-21 pursuant to West Virginia Code § 30-13-22(b).

2. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars ($250.00) for practice engineering without a Certificate of Authorization.

3. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Five Hundred Dollars ($500.00) for providing misinformation to the Board in his application for a Certificate of Authorization.

4. The civil penalty imposed herein totaling Seven Hundred and Fifty Dollars ($750.00) must be paid within thirty (30) days of the date of entry set forth below, 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.

5. 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's 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. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.

7. If the civil penalty imposed herein is not paid within thirty (30) days of the date of entry set forth below, then Respondent's COA is hereby **ORDERED REVOKED**. Said revoked COA may be restored once the civil penalty is paid, and Respondent pays the appropriate fees, and is otherwise in good standing with the Board. West Virginia Code §30-13-21(d)(1).

8. This Consent Order may be summarily enforced in the Circuit Court of Kanawha County, West Virginia, 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 of Seven Hundred and Fifty Dollars ($750.00), together with pre-judgment interest from the date of the Board 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.

9. 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, except as to the provisions set forth in paragraph 7, above, regarding revocation of Respondent's COA, and its effects shall survive the closure of this Consent Order.

10. 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 come before this Board.

11. This Consent Order relates solely to matters set forth in West Virginia engineering law 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:

RESPONDENT

ROBERT STEFFEN 8/12/19 **DATE**

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 17 day of September, 2019.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

By: Bhajan S. Saluja

BHAJAN S. SALUJA, P.E.
BOARD PRESIDENT