BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: Paul H. Kruggel
Paul H. Kruggel & Associates, Inc.

CASE NO. 2004-4

PROPOSED 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 Paul H. Kruggel and his firm, P. H. Kruggel & Associates, Inc., by the Board pursuant to West Virginia Code § 30-13-21. 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. Paul H. Kruggel, (hereinafter at times "Mr. Kruggel" or "Respondent") is an individual who last held a West Virginia professional engineering license issued by this Board in 2001, after which time Mr. Kruggel failed to renew his license.

3. Mr. Kruggel never applied for nor received a certification of authorization as required by West Virginia Code § 30-13-17.

4. Mr. Kruggel, after the expiration of his license to practice engineering in West Virginia and without a certification of authorization issued by the Board, continued to practice engineering or resumed the practice of engineering in the State of West Virginia.

5. Mr. Kruggel and his firm first came to the attention of this Board due to his phone book advertising for Engineering Services in violation of West Virginia engineering law.

6. Mr. Kruggel admits the Board made several attempts to contact him from December 2003 through May of 2004 regarding his lack of licensure and other legal matters and further admits he made no response to these attempts.

7. Mr. Kruggel admits he failed to provide requested information to the Board, in violation of W. Va. Code § 30-13-21(a)(6).

8. Because of Mr. Kruggel's failure to respond, the Board's investigator, by correspondence dated May 27, 2004, indicated he was "referring the matter to the Board and recommending that legal action be taken."

9. During the course of the investigation it was learned that Respondent did engineering work in West Virginia even after being notified of the investigation then pending against him, in blatant disregard of the engineering laws of West Virginia, and Respondent admits to performing engineering work after receiving knowledge of the pending investigation.

10. A formal Complaint was issued by the Board on August 10, 2004, and served upon Respondent by certified mail.

11. Neither Mr. Kruggel nor his counsel in this matter at that time, Jack Barr, Barr Sites & Cissel, of Keyser, West Virginia, submitted a formal response to the Complaint issued by the Board.

12. During the Summer and Fall of 2004, Mr. Kruggel represented to this Board that the only practice of engineering for remuneration conducted after the expiration of his license was in connection with a bridge inspection performed for a subdivision developer. The remuneration was in the amount of $1950.00.

13. Based on the representation set forth above, Mr. Kruggel, through his counsel at that time, agreed to an informal settlement, and this Board prepared and signed same November 10, 2004.

14. In the first proposed Consent Agreement, the Board made it clear any discovery that Respondent had withheld information from the Board would be an exacerbation of the violations of West Virginia engineering law to which Respondent had already admitted.

15. Neither Mr. Kruggel nor his counsel contacted this Board prior to its meeting on November 16, 2004, nor did Respondent ratify the Consent Agreement prior to that date.

16. Subsequent to November 16, 2004, and upon receipt of information regarding additional unlicensed engineering work performed by Mr. Kruggel, the Board, by counsel, notified Respondent, through his counsel, that the offer of settlement was rescinded.

17. On December 20, 2004, Respondent signed the Consent Order and forwarded it to the Board, together with correspondence to its counsel.

18. As of that date, Mr. Kruggel has opted to proceed without counsel in attempting to reach this informal settlement.

19. At the request of the Board, Respondent provided a list of work performed during a time period when he did not hold a P.E. license or COA, which list is attached hereto as Attachment A.

20. Respondent admits he was aware that such work was in addition to the work the Board was aware of at the time of the initial negotiation and therefore admits he made material misrepresentations to the Board regarding same.

21. Mr. Kruggel admits his practice of engineering in West Virginia after his license was expired is in violation of W. Va. Code § 30-13-2.

22. Mr. Kruggel admits his firm practiced engineering in West Virginia without a certification of authorization in violation of W. Va. Code § 30-13-17.

23. Mr. Kruggel agrees to waive his right to a hearing on this matter and to waive other rights set forth in W. Va. Code § 30-13-1 *et seq.* and the procedural rules of the Board's investigator had spent over twenty-five (25) hours on matters related to Mr. Kruggel's unauthorized practice of engineering and further knew the Board had incurred legal expenses.

24. Due to Respondent's misrepresentations to the Board, other actions of Respondent or his former counsel, or other delays which occurred through no fault of this Board, additional time and expense has been expended on this matter since November 10, 2004.

25. Respondent agrees to accept an informal settlement of Complaint 2004-4.

CONCLUSIONS OF LAW

26. West Virginia Code § 30-13-21 authorizes the Board to discipline any person practicing or offering to practice engineering in the State of West Virginia.

27. Among its other powers, the Board has the power to levy fines and assess costs. W. Va. Code § 30-13-21(d)(4).

28. Practicing engineering without a license, to which Respondent has admitted, is an action that would subject a person to discipline by the Board, including a civil penalty up to $5000.00.

29. Practicing engineering without a certificate of authorization (COA), to which Respondent has admitted, is an action that would subject a person to discipline by the Board, including a civil penalty up to $5000.00.

30. Withholding information requested by the Board, to which Respondent has admitted, is an action that would subject a person to discipline by the Board, including a civil penalty up to $1000.00.

31. Making misrepresentations to the Board, to which Respondent has admitted, is an action that would subject a person to discipline by the Board, including a civil penalty up to $15,000.00.

32. Each day of continued violation may constitute a separate offense.

CONSENT OF PAUL H. KRUGGEL

Paul H. Kruggel, by affixing his signature hereon, agrees to the following:

33. Mr. Kruggel acknowledges he was represented by counsel until mid-December 2004, and is fully aware of his option to pursue this matter through appropriate

administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.

34. On or after December 15, 2004, Mr. Kruggel intelligently and voluntarily waived his right to counsel and has proceeded with this matter *pro se*.

35. Mr. Kruggel intelligently and voluntarily waived his right to a formal hearing within six months after the Board's receipt of this complaint.

36. Mr. Kruggel 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.

37. Mr. Kruggel consents to the entry of the following Order freely and voluntarily and not under duress, restraint or compulsion.

38. Mr. Kruggel acknowledges that the Board may reject this proposal and may hold a hearing to impose other sanctions of a disciplinary nature as it deems appropriate.

ORDER

39. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Agreement shall serve as an informal settlement pursuant to West Virginia Code § 30-13-22(b).

40. The Board **ORDERS** Paul H. Kruggel to pay a fine in the amount of One Thousand Dollars ($1,000.00) for practicing engineering without license.

41. The Board **ORDERS** Paul H. Kruggel or his firm to pay a fine in the amount of One Thousand Dollars ($1,000.00) for practicing engineering without a certificate of authorization.

42. The Board **ORDERS** Paul H. Kruggel or his firm to pay a fine in the amount of Five Hundred Dollars ($500.00) for failing to provide timely information to the Board.

43. The Board **ORDERS** Paul H. Kruggel or his firm to pay a fine in the amount of One Thousand Five Hundred Dollars ($1500.00) for making misrepresentations and providing misinformation to the Board.

44. The Board **ORDERS** Paul H. Kruggel or his firm to pay administrative costs in the amount of One Thousand Dollars ($1,500.00).

45. Notwithstanding statutory or procedural provisions to the contrary, Respondent shall be given ten (10) months to pay in full the civil penalties and costs imposed herein. If the civil penalties totaling $4000.00 are initially paid in full, Respondent may make such payment to the State of West Virginia directly, or may make such payment to the Board and it shall be transferred to the general fund of the State of West Virginia by the Board upon receipt. If the civil penalties are paid in part, Respondent shall make such payments in amounts not less than $500.00 per payment. Such partial payments shall be payable to the Board, who shall transfer such amounts to the State of West Virginia. The first $1500 in payment(s) shall be made payable to the Board and booked as payment of the costs agreed to in this Consent Order.

46. Upon receipt of all materials required for reinstatement and issuance of a license and COA pursuant to Board rule, the Board will reinstate Mr. Kruggel's license and shall issue a certificate of authorization to his firm on July 1, 2005, or upon receipt of the civil penalties and costs agreed to herein, whichever comes last.

47. Mr. Kruggel agrees any entity he did work for in West Virginia may be notified regarding this matter, including notification that aiding and abetting the unlicensed practice of engineering is in violation of West Virginia's engineering law.

48. Mr. Kruggel agrees to contact this Board if he engages in any work in West Virginia prior to his licensure, providing whatever information the Board may reasonably require and including the name and P.E. license number of the engineer in responsible charge of Respondent's work.

49. Mr. Kruggel agrees to inform any engineer under whom he works of the sum and substance of this Consent Agreement and the underlying complaint, notifying the engineer that s/he may be contacted with regard to Mr. Kruggel's work.

50. Mr. Kruggel acknowledges that this Consent Agreement is a public record and agrees that the sum and substance of the nature of the Complaint and this Agreement may be set forth in Board publications and on the Board website, as well as other appropriate placements.

51. Any violation of the terms of this Consent Agreement shall be immediate cause for a hearing and further disciplinary action by the Board.

WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

By _____
Leonard J. Timms, P.E.
Board President

Date: April 25, 2005

Paul H. Kruggel, individually and as principal
for P. H. Kruggel & Associates, Inc.

Date: 3/16/05