BEFORE THE WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: Todd D. Poff **C2006-15**

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 Todd D. Poff [hereinafter at times referred to as Mr. Poff or 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. Todd D. Poff held a license to practice engineering in West Virginia, which license number 015097 lapsed on June 30, 2005.
3. Respondent Poff states he knowingly did not reapply for West Virginia licensure, in good faith thinking he was not and would not be practicing or offering to practice engineering work in West Virginia after June 30, 2005.
4. Subsequent to the lapse of Respondent Poff's West Virginia license, Respondent Poff performed engineering work in connection with a contract which had been in effect in 2003 for which he had on-going obligations he was not aware of at the time of his decision not to renew his West Virginia license.
5. Respondent performed the engineering work while requesting that his license be

reinstated.

6. This complaint resulted from ensuing communications between Mr. Poff and Board staff, and Mr. Poff's license application has been held in abeyance pending resolution of this Complaint.

7. Respondent Poff admits he practiced engineering in West Virginia without a license.

8. Respondent's self-reporting, prompt application for reinstatement and cooperation with the Board in entering into this consent order mitigates Respondent's culpability regarding the charge of practicing engineering without a license.

9. 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.

10. 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

11. 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.

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

13. Practicing engineering without a license, including an expired license, is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to $5000.00. 7 CSR 1.15.1.

14. 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).

15. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF TODD D. POFF

Todd D. Poff, by affixing his signature hereon, agrees to the following:

16. Respondent is aware of its right to be represented by counsel and of his option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently, knowingly and voluntarily waives his right to do so.

17. 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.

18. Respondent agrees to accept an informal settlement of Complaint 2006-15.

19. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

20. 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.

21. Respondent acknowledges that proof of any misstatement or misrepresentation made by him herein, on his application for licensure, or on 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 his license, 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

22. 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).

23. 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 license.

24. 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.

25. Respondent will not practice or offer to practice engineering in the State of West Virginia unless and until he holds a valid license issued by this Board, which license shall not issue until Respondent has qualified for same and paid the civil penalty imposed herein.

26. Respondent acknowledges this Consent Order and the underlying Complaint are public records and agrees 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, 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).

27. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of Respondent's license and further disciplinary action by the Board.

28. 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.

29. If the civil penalty imposed hereunder is 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 and post-judgment interest from the date of entry of the Judgment Order, which judgment shall be fully executable in accordance with applicable law.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

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

Date: 9/08/06

_____
TODD D. POFF

Date: 9/5/06