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

**IN RE: STRUCTURAL INTEGRITY ASSOCIATES C2007-13**

## 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) for the purpose of agreeing to disciplinary action to be taken against Structural Integrity Associates, Inc. [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. Structural Integrity Associates is a corporation organized under the laws of the State of California, with its principal offices in San Jose, California and Silver Spring, Maryland.
3. Harry L. Gustin is an Associate and principal of Structural Integrity Associates and holds W. Va. PE license # 016884.
4. Mr. Gustin has the power and authority to make admissions and otherwise act on behalf of Respondent.
5. Respondent provided information to the Board in the Fall of 2006 regarding matters giving rise to this Complaint and immediately thereafter applied for and obtained Certification of Authorization No. 2876-00.

6. Respondent admits it provided engineering services in the State of West Virginia prior to its obtaining a valid certificate of authorization (COA).

7. The board-initiated complaint was served by certified mail on January 8, 2007, and this Consent Order was immediately negotiated as a result of communications between the Board and Respondent.

8. Initially served as C2006-33, the Board finds that the complaint should have been numbered C2007-13 and therefore modifies same.

9. Respondent's prompt admission and cooperation with the Board in this matter, mitigates Respondent's culpability regarding the charges of practicing engineering without a COA and therefore the Board, in its discretion, will not initiate a complaint against the individual engineer(s) who practiced in West Virginia on Respondent's behalf although the Board finds it was within its power to bring such a complaint.

10. Respondent has waived its 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 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

12. 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.

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); *see also* W. Va. Code §30-13-21(d)(4).

14. Practicing or offering to practice engineering without a valid COA, to which Respondent has admitted herein, is an action that would subject a firm to discipline by the Board, including a civil penalty up to $5000.00. 7 CSR 1.15.1.

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

## CONSENT OF HARRY L. GUSTIN

Harry L. Gustin, as principal of Structural Integrity Associates, Inc., by affixing his signature hereon, agrees to the following on behalf of Respondent Structural Integrity Associates:

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

17. Respondent intelligently and voluntarily waives its right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.

18. Respondent has no objection to the re-numbering of the Complaint and agrees to accept an informal settlement of Complaint 2007-13.

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 in connection with this matter will result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of any certificate of authorization issued to Respondent, 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 certificate of authorization.

24. The civil penalty imposed herein must be paid within thirty (30) days of the date of the signature of the Board President, 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.

25 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).

26. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of Respondent Structural Integrity Associates' COA and further disciplinary action by the Board.

27. 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.

28. If the civil penalty imposed herein 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.

29. 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.

30. 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: 1/23/07

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HARRY L. GUSTIN, P. E., as principal for
STRUCTURAL INTEGRITY ASSOCIATES, INC.

Date: 1/22/07