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BEFORE THE WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: MERVIN L. SNOWDEN **C2009-7**

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 (hereinafter the "Board") for the purpose of agreeing to disciplinary action to be taken against Mervin L. Snowden (hereinafter "Respondent Snowden"). 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. Respondent Snowden is a licensed professional engineer in the State of West Virginia holding license number 10469.
3. Respondent Snowden is also licensed in the State of Louisiana and holds license number PE-31944.
4. The Louisiana Professional Engineering and Land Surveying Board opened an investigation with regard to the receipt of informal complaints that Respondent Snowden may have engaged in the unlicensed offering and/or practicing of

engineering in the State of Louisiana.

5. On June 26, 2008, Respondent Snowden entered into a Consent Order with the Louisiana Professional Engineering and Land Surveying Board.

6. When applying for his 2008 renewal, Respondent Snowden failed to report that he was the subject of an investigation for disciplinary violations in Louisiana.

7. Respondent's prompt response in connection with this Complaint as well as other extenuating circumstances mitigates Respondent's culpability regarding the admitted violations of West Virginia engineering law.

8. Respondents have 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.

CONCLUSION OF LAW

9. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a license or impose a civil penalty upon any professional engineer who has provided misinformation to the Board. West Virginia Code '30-13-21(a)(12).

10. Providing misinformation to the Board, to which Respondent Snowden has admitted herein, is an action that is subject to discipline by the Board, including a civil penalty up to Fifteen Thousand Dollars ($15,000.00). 7 CSR 1.15.1.

11. 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).

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

CONSENT OF RESPONDENT

Mervin L. Snowden, individually, by affixing his signature hereon, agrees to the following:

13. Respondent Snowden 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 Respondent intelligently and voluntarily waives his right to do so.

14. Respondent intelligently and voluntarily his 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.

15. Respondent Snowden admits he did not report the disciplinary action in Louisiana when renewing his West Virginia Professional Engineer license in June, 2008.

16. Respondent Snowden 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.

17. Respondent Snowden 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.

18. Should the Board not approve this Consent Order, presentation to and consideration

of this Consent Order and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Order.

19. Respondent Snowden 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

1. 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).

2. The Board **ORDERS** Respondent Snowden to pay a civil penalty in the amount of Five Hundred dollars ($500.00) for providing misinformation to the Board.

3. The civil penalties imposed herein must be paid within thirty (30) days of the date Respondents receive 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.

4. The Board **ORDERS** Respondents to pay administrative costs in the amount of Two Hundred Dollars and Seventy-five Cents ($200.75).

5. The administrative costs imposed herein must be paid within thirty (30) days of the date Respondents receive notice of the Board President's signature hereon, such amount to be made payable to the W.Va. P.E. Board (Administrative Costs). This payment must be separate from that of the civil penalties imposed above.

6. Respondent will remain current on both his Professional Engineer license and the Certificate of Authorization for his firm, and understands that non-payment of his fines and administrative costs may subject him to further disciplinary action by this Board.

7. Respondent Snowden 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 and national enforcement databases, as well as other appropriate placements.

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

9. 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

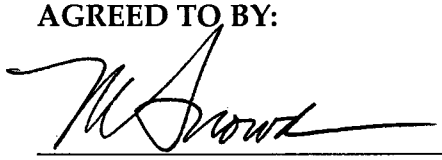
terms of this Consent Order.

10. 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, Five Hundred Dollars ($500.00), 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.

11. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty and administrative costs agreed to herein.

12. 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:



MERVIN L. SNOWDEN

4.7.09

DATE

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

17th day of April, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: _____ 17th April 2009
LEONARD J. TIMMS JR., P.E., **DATE**
BOARD PRESIDENT