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BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: STRUCTURAL RESOURCES, INC.

C2017-10

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Edward L. Robinson, P.E., its President, (hereinafter “the Board”) for the purpose of agreeing to resolve the Board-initiated Complaint. The Complaint, as filed, was against Structural Resources, Inc., (“Respondent Firm”). 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 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. Respondent Firm is organized under the laws of the State of Illinois, with its principal place of business in Downers Grove, Illinois.
3. The Board received an application for a Certificate of Authorization (COA) from Respondent Firm on August 30, 2016, naming Mr. Matocha as its engineer in responsible charge, and issued COA C0497 on the same day.
4. Todd Matocha is the President of Respondent Firm and was issued West Virginia License Number 22035 on the same day Respondent Firm was issued its COA.
5. Thereafter, investigation by the Board revealed that Respondent Firm had been disciplined by the Illinois Department of Financial and Professional Regulation in 2013 for operation on a non-renewed professional design firm license; even though

Respondent Firm had indicated it had never been subject to disciplinary action or investigation by a regulatory body.

6. On September 6, 2016, the Board requested a copy of the Illinois order or other documentation of the discipline, after which Mr. Matocha, on behalf of Respondent Firm, indicated that the paperwork had been requested from the Illinois board and would be forwarded to the West Virginia Board upon receipt.
7. On October 25, 2016, the Board sent a reminder email and, still not having received the requested information, the Board initiated Complaint Number C2017-10 at its regular meeting on November 2, 2016.
8. After Respondent Firm's failure to timely respond, the Board sent an email on December 20, 2016, after which Mr. Matocha, without basis, indicated he had assumed that the documentation had been forwarded by the Illinois board and again stated he would forward the requested documentation upon receipt, which was received by the Board on December 30, 2016.
9. Respondent Firm admits it provided misinformation to the Board in its attempt to obtain a COA and further admits it failed to provide information to the Board within thirty (30) days.
10. The Board has taken into account the following factors in reaching this settlement: the dilatory manner in which Respondent Firm failed to respond to the Board's request for information or to the allegations in Complaint Number C2017-10; the absence of risk of harm to the public given that Respondent Firm had a COA even though it had been issued based on misinformation in the application; and Respondent Firm's eventual cooperation in the resolution of this Complaint.

11. 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

12. The Board is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia, and matters related to such practice are within the jurisdiction of the Board. W. Va. Code § 30-13-1 *et seq.*
13. Todd Matocha, as President of Structural Resources, Inc., has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.
14. Failure within thirty (30) days to provide information requested by the Board as a result of a formal or informal complaint which would indicate a violation of W. Va. Code § 30-13-1 *et seq.* is a basis for disciplinary action by the Board. W. Va. Code § 30-13-21(a)(6).
15. Providing false information to the Board is a basis for disciplinary action by the Board. W. Va. Code § 30-13-21(a)(12).
16. 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.
17. The provisions of W. Va. Code § 30-13-21(a) are applicable as appropriate to firms. W. Va. Code § 30-13-21(d).

18. 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). W. Va. Code R. § 7-1-15.1.
19. Failure to timely provide information to the Board may subject any person or firm to discipline by the Board, including a civil penalty up to One Thousand Dollars (\$1,000.00). W. Va. Code R. § 7-1-15.1.
20. 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.
21. 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 FIRM

Todd Matocha, as President of Structural Resources, Inc., agrees to the following:

22. Respondent Firm is aware of its right to be represented by counsel and to pursue this matter through appropriate administrative and/or court procedures, including its right to a formal hearing before the Board, and notwithstanding, Respondent Firm intelligently and voluntarily waives these rights provided the Board accepts the terms and conditions set forth in this Consent Order.
23. Respondent Firm admits it submitted a COA application which contained misinformation regarding past disciplinary action and further admits it failed to timely provide information requested by the Board regarding that disciplinary action.

24. Respondent Firm 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.
25. Should the Board not approve this Consent Order, Respondent Firm waives any objections to the Board or any of its members participating in the adjudication of this matter based on the Board's consideration of this Consent Order. This paragraph is binding on Respondent Firm even if the Board does not approve this Consent Order.
26. Respondent Firm 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.
27. Respondent Firm 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, unrelated disciplinary matter involving Respondent Firm which may be before this Board.
28. Respondent Firm understands that this Complaint, documents submitted to the Board by Respondent Firm, and this Consent Order, together with other public documents which may be in the file, are public records which must be made available upon legal request in accordance with the state's Freedom of Information Act.
29. Respondent Firm 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 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).

30. Respondent Firm acknowledges that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of any the certification issued to Respondent Firm by the Board, and the addition of any other charges which may arise or ensue from non-compliance with this Consent Order.
31. Respondent Firm acknowledges that proof of any material misstatement or misrepresentation made in connection with this matter may result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of the certification issued to Respondent Firm 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 C2017-10 pursuant to W. Va. Code § 30-13-22(b).
2. The Board **ORDERS** Respondent Firm be reprimanded for its provision of misinformation to the Board with regard to Respondent Firm prior disciplinary action in connection with its COA application and for failing to timely respond to the Board's request for information regarding the disciplinary action.
3. The Board **ORDERS** Respondent Firm to pay total civil penalties in the amount of Five Hundred Dollars (\$500.00) for the following violations:

- a. Two Hundred Fifty Dollars (\$250.00) for providing misinformation to the Board;
and
 - b. Two Hundred Fifty Dollars (\$250.00) for failing to timely respond to the Board's request for information.
4. The civil penalties imposed herein totaling Five Hundred Dollars (\$500.00) 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 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 penalties totaling Five Hundred Dollars (\$500.00) are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondent Firm upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein, 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.
8. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalties agreed to herein.

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 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, unrelated disciplinary matter involving Respondent Firm which may come before this Board.
10. 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:



STRUCTURAL RESOURCES, INC.
By Todd Matocha, Its President

04-20-17
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 5 day of May, 2017.

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

By: 

EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT