

**BEFORE THE WEST VIRGINIA STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS****WV PE BOARD****IN RE: CHRIS DECK, RICK MOSS AND STEEL
SAFE FOUNDATION SYSTEMS****CASE NO. 2009-3**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

Pursuant to a hearing held before the West Virginia State Board of Registration for Professional Engineers (hereinafter "Board"), Leonard Timms presiding, on the 18th day of November, 2008 at Bluefield State College, in the Tierney Auditorium of Dickason Hall, 219 Rock Street, Bluefield West Virginia, the Board hereby makes the following Findings of Fact and Conclusion of Law:

FINDINGS OF FACT

1. Respondent Deck was mailed this Complaint by certified mail dated August 18, 2008. (November 18, 2008, Tr. p. 11, Board Exhibit 2).
2. Respondent Deck did not formally respond to the Complaint. (November 18, 2008, Tr. p. 11).
3. Respondent Deck is the owner of Steel Safe Foundation Systems. (November 18, 2008, Tr. p. 18, Exhibit 4).

4. Respondent Deck knew about the investigation of the allegations giving rise to this Complaint and acknowledged it was a serious matter. Exhibit 4.
5. Respondent Deck received Complaint C2009-3, although the Board never received the return receipt after service of same, since he requested and was granted an additional ten (10) days in which to respond. (Board Exhibit 4A).
6. Respondent Deck did not file a response to the Complaint despite being urged to do so by the Board, although by email dated November 7, 2008, Respondent Deck provided rules and regulations for manufactured home foundations which Respondent Deck stated were to become effective November 16, 2008, which rules the Board finds irrelevant to this Complaint. (November 18, 2008, Tr. p. 20-22, Board Exhibit 5).
7. Despite repeated attempts by the Board to determine whether Rick Moss was served or knew of the Complaint, Respondent Deck provided no information regarding the whereabouts of Respondent Moss, and the Board has no proof of the existence of Respondent Moss. (November 18, 2008, Tr. p. 18-21, Board Exhibits 4A and 5).
8. The hearing on Complaint 2009-3 was duly noticed on October 17, 2008. (Board Exhibit 1).

9. Respondent Deck did not attend the hearing, did not request any continuance of the hearing and did not provide any information regarding his failure to attend.
10. Respondent's non-attendance was without good cause.
11. By letter dated July 16, 2008, Eric Joseph Tompos informed the Board that he had reason to believe that Respondent Moss was forging Professional Engineering seals from several states, including West Virginia. (November 18, 2008, Tr. p. 11-12, 39, Board Exhibit 3).
12. Mr. Tompos learned of the fraudulent use of his seal after being contacted by Bea Lewis with Safeguard Properties regarding Professional Engineering seals that were placed on certification documents (November 18, 2008, Tr. p. 39-40, Board Exhibit 3).
13. Mr. Tompos had a business relationship with Respondent Deck and Steel Safe Foundation Systems that lasted approximately one (1) year. (November 18, 2008, Tr. p. 33-34).
14. The business relationship between Mr. Tompos and Respondent Deck was terminated by Mr. Tompos after he discovered that Respondent Deck had altered a draft document by deleting the "DRAFT" watermark from the document and presenting it as an authentic valid report. (November 18, 2008, Tr. p. 36-37).

15. Mr. Tompos was not familiar with anyone by the name of Rick Moss working with Respondent Deck and was not aware of Respondent Deck having any personnel whatsoever. (November 18, 2008, Tr. p. 34).
16. The West Virginia seal No. 6351 signed with the name "Rick Moss" was an inactive seal that belonged to a Mr. Medley and has not at any time been assigned to anyone by the name "Rick Moss." (November 18, 2008, Tr. p. 23-24, Board Exhibit 3A).
17. No one by the name of "Rick Moss" exists in the West Virginia Board of Registration for Professional Engineers licensee database. (November 18, 2008, Tr. p. 23).
18. There is no evidence that the entity "Rick Moss" exists; rather, it appears Respondent Deck fabricated the name for his own use and benefit. (November 18, 2008, Tr. p. 28, Board Exhibit 3).
19. The Board finds no evidence to support discipline against Respondent Rick Moss because there is no evidence that Rick Moss is an actual person separate and distinct from Respondent Deck.
20. Respondent Deck did not provide credible information to the Board during the investigation of this Complaint, but rather provided contradictory and/or false information. (November 18, 2008, Tr. p. 13-22, Board Exhibits 4, 4A and 5).

21. Based on the totality of the evidence, the Board finds that Respondent Deck knowingly and intentionally fabricated seals purporting to credential one "Rick Moss" as a professional engineer in West Virginia and other states. Exhibit 3, 3A and 3B.
22. Respondent Deck's knowing and intentional fabrication of a seal and falsified documents is a blatant example of practicing engineering without a license and is an action which was likely to and did deceive or defraud the public.
23. Respondent Deck's fraudulent use of a West Virginia Professional Engineer seal constitutes Misuse of Seal, but inasmuch as the seal was wholly fabricated in order to deceive or defraud the public, the Board, in its discretion, will not add the charge of "Misuse of Seal."
24. Respondent Deck's pattern and practice of evading the Board's requests for information and providing false and contradictory information to the Board prompts this Board to discipline Respondent Deck for the additional charge of Providing Misinformation to the Board.
25. Because Respondent firm Steel Safe Foundation System and Respondent Deck appear to be one and the same, the Board, in its discretion, chooses not to pursue the charge of Practice without a Certificate of Authorization against Respondent Steel Safe Foundation Systems.

26. The Board has incurred Two Thousand Five Hundred Sixty Seven Dollars and Fifty Cents (\$2,567.50) in administrative costs in the investigation and hearing of this matter.

CONCLUSIONS OF LAW

1. The Board is a State entity created by West Virginia Code § 30-13-1 *et seq.* to regulate the practice of professional engineering in this state.
2. The Board is authorized to discipline any person practicing or offering to practice engineering in the State of West Virginia. W.Va. Code § 30-13-1 *et seq.*
3. The failure to file a response to a complaint is deemed an admission of the factual allegations contained therein and shall not be grounds for delaying a hearing or other action upon the complaint. 7 CSR 2-2.5.
4. The Board is authorized to proceed with a hearing without the attendance of the Respondent. W.Va. Code § 30-13-22(c).
5. The Board has the authority to levy fines and assess costs against persons. W.Va. Code § 30-13-21(b) and 7 CSR 1-15.
6. Practicing engineering without a license is an action that would subject a person to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00). 7 CSR 1-15.1.

7. Providing false information to the Board is an action which would subject a person to discipline by the Board, including a civil penalty up to Fifteen Thousand Dollars (\$15,000.00). W.Va. Code § 30-13-21(12), 7 CSR 1-15.1.
8. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive or defraud the public would subject a person to discipline by the Board, including a civil penalty up to Fifteen Thousand Dollars (\$15,000.00). W.Va. Code § 30-13-21(11), 7 CSR 1-15.1.
9. Each day of continued violation constitutes a separate offense. 7 CSR 1-15.2.
10. Any civil penalty assessed as a result of a hearing must be paid within fifty (50) days of this Order. W.Va. Code § 30-13-22(f).
11. The Board has the authority to assess administrative costs incurred in the performance of its enforcement or investigatory activities against any person or entity found in violation of its rules, which shall be paid to the West Virginia State Board of Registration for Professional Engineers by check or money order within a period of thirty (30) days from the date of the final order entered by the Board. 7 CSR 1-14.4.

ORDER

Based upon the foregoing, the Board hereby **ORDERS** the following:

1. That this matter as it pertains to Respondent Moss be dismissed without prejudice unless or until there is evidence that Respondent Moss is a separate and distinct person from Respondent Deck.
2. That this matter as it pertains to Respondent firm Steel Safe Foundation Systems be dismissed without prejudice unless or until there is evidence that others connected with Respondent firm took actions separate and distinct from Respondent Deck.
3. That Respondent Deck pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) for practicing engineering in West Virginia without a license.
4. That Respondent Deck pay a civil penalty in the amount of Fifteen Thousand Dollars (\$15,000.00) for deceiving and defrauding the public.
5. That Respondent Deck pays a civil penalty in the amount of Fifteen Thousand Dollars (\$15,000.00) for providing false information to the Board.
6. That Respondent Deck pay administrative costs in the amount of Two Thousand Five Hundred Sixty Seven Dollars and Fifty Cents (\$2,567.50).
7. That the required payments totaling Thirty-seven Thousand Five Hundred Sixty-seven Dollars and Fifty Cents (\$37,567.50) be made within fifty (50) days from the date of entry of this **ORDER**, with the civil

penalties of Thirty-five Thousand Dollars (\$35,000) being made payable to the State of West Virginia and the administrative costs of Two Thousand Five Hundred Sixty-seven Dollars and Fifty Cents (\$2,567.50) being made payable to the West Virginia P.E. Board.

8. That a copy of this **ORDER** be served upon Respondent Deck by certified mail within five days after entry by the presiding officer.
9. That a copy of this **ORDER** be forwarded to the Prosecuting Attorney of Kanawha County, West Virginia; the appropriate law enforcement agencies in New Mexico; including the New Mexico State Board of Licensure for Professional Engineers and Surveyors; the Kentucky Board of Engineers and Land Surveyors; the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors; the Illinois Board of Professional Engineers; the Georgia Board of Professional Engineers and Land Surveyors; the Florida Board of Professional Engineers; and the United States Department of Housing and Urban Development (HUD)
10. That a copy of this **ORDER** be set forth in Board publications and on the Board website and national enforcement databases, as well as other appropriate public placements, including the non-public enforcement


exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).

11. This **ORDER** may be appealed to the Circuit Court of Kanawha County in accordance with West Virginia law.

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

2ND day of February, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: 
LEONARD J. THMS JR., P.E.,
BOARD PRESIDENT