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BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: DENNIS CORPORATION
DANIEL R. DENNIS, III

C2017-18

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 against Respondents Dennis Corporation (“Respondent Firm”) and Daniel R. Dennis, III (“Respondent Dennis”). 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 Dennis has held West Virginia P.E. License No. 17195 since April of 2007, which license became inactive as of August 6, 2015.
3. Respondent Dennis is the President and Chief Executive Officer (CEO) of Respondent Firm, which is organized under the laws of the State of South Carolina, and Respondent Firm has held Certificate of Authorization (COA) #C03056 since April of 2007, which became inactive as of July 28, 2015.
4. In late 2016 it came to the attention of the Board that Respondents were involved in a federal investigation of what was termed a “pay-to-play” scheme involving public monies and contracts with the West Virginia Department of Highways (WV DOH).

5. Dennis Corporation signed a Deferred Prosecution Agreement (“the Agreement”) on December 8, 2016, wherein it accepted responsibility for conduct set forth in the Information which was filed in the United States District Court for the Northern District in Martinsburg on February 17, 2017, and styled *USA v. Dennis Corporation*, 3:17CR17.
6. The Agreement waived the indictment and continued the trial for the 36-month deferred prosecution term, during which time Respondent Firm agreed to take certain remedial action, fully cooperate with law enforcement, pay restitution in the amount of \$250,000.00 to the State of West Virginia, implement enhanced internal controls as set forth in the Agreement, and comply in the future with all federal and state criminal laws.
7. Respondent Dennis, on December 6, 2016, waived his right to a Grand Jury proceeding and agreed to plead guilty to a one-count felony Information charging him with Conspiracy to Impede the Internal Revenue Service in violation of Title 18, United States Code Section 371.
8. The Information was filed against Respondent Dennis in the United States District Court for the Northern District in Martinsburg on January 12, 2017, and styled *USA v. Daniel R. Dennis, III*, 3:17CR3.
9. The charges related to a manner and means of a conspiracy involving Respondents, employees of Respondent Firm, and employees and former employees of WV-DOH beginning in or about July 2009 through April 2014.
10. During this time period, Respondents were credentialed with this Board to practice engineering in the State of West Virginia.
11. A judgment order was entered against Respondent Dennis on September 25, 2017 and Respondent Dennis was fined \$5,000.00 and sentenced to two years of probation.

12. For purposes of this Consent Order, the following names refer to the following persons or firms: “Mr. Kenney” is Bruce E. Kenney, III, a professional engineer and former employee of the WV DOH and Respondent Corporation at the time of some or all of the events which gave rise to this complaint, and the Respondent in Board Complaint C2017-16; “Mr. Miller” is James T. Miller, a professional engineer, a former employee of the WV DOH and/or Respondent Corporation at the time of some or all of the events which gave rise to this complaint, and the Respondent in Board Complaint C2017-17; and “Mr. Nichols” is Andrew P. Nichols, a professional engineer who was also a former professor at Marshall University and an employee of Dennis Corporation at the time of some or all of the events which gave rise to this complaint, and who is the Respondent in Board Complaint C2018-02.
13. The Board initiated Complaint Number C2017-18 at its regular meeting on January 25, 2017, to which Respondents, by counsel, filed a response in lieu of Answer within the timeframe allowed by the Board, admitted the allegations of the Complaint, and reserved the right to submit evidence in mitigation of any sanctions imposed by the Board.
14. While Respondents benefitted from the pay-to-play scheme, they provided information satisfactory to the Board that Respondent Dennis was not the professional engineer who came up with the scheme, nor did he manage its day-to-day operation.
15. The Board has taken into account the following factors in reaching this settlement: the circumstances leading to the violation which were criminal acts; the nature and severity of the violation and the risk of harm to the public, which the Board finds to be serious; the extent to which Respondents cooperated with federal prosecutors in the related criminal matters, which the Board understands to have been substantial; the extent to

which Respondents have cooperated with the Board in the settlement of this matter; and other matters as may be appropriate. W. Va. Code R. § 7-1-15.4.

16. The Board has incurred administration costs in excess of One Thousand Five Hundred Dollars (\$1,500.00) in the investigation, initiation and resolution of this complaint.

CONCLUSIONS OF LAW

17. 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.*
18. Mr. Dennis, as the President and CEO of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.
19. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who has been convicted of any crime which is a felony, or any crime whether a felony or misdemeanor if an essential element is dishonesty or is directly related to the practice of engineering. W. Va. Code § 30-13-21(a)(3).
20. Respondent Dennis pled guilty to a felony, an essential element of which is dishonesty and which was also directly related to the practice of engineering, in violation of W. Va. Code § 30-13-21(a)(3).
21. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who has failed to comply with any of the provisions of this article or any of the rules promulgated under it. W. Va. Code § 30-13-21(a)(4).
22. These rules include the Rules of Professional Responsibility, which include a registrant's obligation to society. W. Va. Code R. § 7-1-12.3.

23. As part of a registrant's obligation to society, a registrant shall not permit the use of their name or firm name, nor associate in business ventures with any person or firm engaging in fraudulent or dishonest business or professional practices. W. Va. Code R. § 7-1-12.3(g).
24. Respondents played an important role and benefitted from the pay-to-play scheme, thus permitting their names to be used in connection with fraudulent or dishonest business or professional practices in violation of W. Va. Code R. § 7-1-12.3(g).
25. Respondent Dennis' violation of the Rules of Professional Responsibility is a violation of W. Va. Code § 30-13-21(a)(4).
26. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who knowingly made false statements or signed false statements to induce payment. W. Va. Code § 30-13-21(a)(7).
27. Through emails and otherwise, Respondent Dennis made and/or signed false statements and directed the inducement of payments from the accounts of Dennis Corporation, knowing them to be based on false statements in the form of expense reports, in violation of W. Va. Code § 30-13-21(a)(7).
28. The Board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public. W. Va. Code § 30-13-21(a)(11).
29. Respondent Dennis' and Dennis Corporation's involvement in the pay-to-play scheme constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, in violation of W. Va. Code § 30-13-21(a)(11).
30. 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.

31. The provisions of W. Va. Code § 30-13-21(a) are applicable as appropriate to firms. W. Va. Code § 30-13-21(d).
32. 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.
33. 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 RESPONDENTS

Daniel R. Dennis, III, individually and as Owner and CEO of Dennis Corporation, agrees to the following:

34. Respondents are represented by counsel and are aware of their right to pursue this matter through appropriate administrative and/or court procedures, including their right to a formal hearing before the Board, and notwithstanding, Respondents intelligently and voluntarily waive these rights provided the Board accepts the terms and conditions set forth in this Consent Order.
35. Respondents accept the findings and admit the violations set forth above and consent to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

36. Respondents have previously waived any and all objections regarding the timeliness of Board action on Complaint C2017-18, which waiver is binding on Respondents even in the event that the Board does not approve this Consent Order.
37. Should the Board not approve this Consent Order, Respondents have waived 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 Respondents even if the Board does not approve this Consent Order.
38. Respondents acknowledge 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 based on the complaint as filed.
39. Respondent Dennis understands there are related complaints naming other professional engineers licensed in West Virginia at the time they were involved in the pay-to-play scheme and agrees to cooperate in the investigation and prosecution of these other professional engineers, including providing sworn testimony at any hearing which may be held in connection with these related pending complaints.
40. Respondents understand 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.
41. Respondents understand 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.

42. Respondents agree 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).
43. Respondents acknowledge 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 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.
44. Respondents acknowledge 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 C2017-18 pursuant to W. Va. Code § 30-13-22(b).

2. Respondent Dennis is **REPRIMANDED** for the several violations of W. Va. Code R. § 7-1-12, all of which violate W. Va. Code § 30-13-21(a)(4), his violation of W. Va. Code § 30-13-21(a)(3) and his violation of W. Va. Code § 30-13-21(a)(7).
3. The Board **ORDERS** Respondent Dennis to pay the maximum civil penalty of Fifteen Thousand Dollars (\$15,000.00) for violation of W. Va. Code § 30-13-21(a)(11).
4. Respondent Dennis, who is not currently licensed in West Virginia, agrees to arrange for the surrender and return of his West Virginia professional engineering license and seal within thirty (30) days of entry of this Consent Order and further agrees to never apply to reinstate his professional engineering license in this State and to never practice or offer to practice engineering in West Virginia at any future time.
5. Respondent Firm agrees to arrange for the surrender and return of its West Virginia Certificate of Authorization to the Board, to never apply for a Certificate of Authorization to practice engineering in this State, and to never practice or offer to practice engineering in West Virginia at any future time.
6. The Board **ORDERS** Respondent Firm to pay total civil penalties in the amount of Ten Thousand Dollars (\$10,000.00) for the following violations:
 - a. The maximum civil penalty of Five Thousand Dollars (\$5,000.00) for violation of W. Va. Code § 30-13-21(a)(7); and
 - b. An additional civil penalty of Five Thousand Dollars (\$5,000.00) for violation of W. Va. Code § 30-13-21(a)(11).
7. The civil penalties imposed herein totaling Twenty-Five Thousand Dollars (\$25,000.00) shall be made payable to the W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt, but may remain unpaid in part or in their entirety until such time as Respondent Firm has fully paid restitution to the State of West

Virginia, per the Agreement entered in the federal criminal matter, or provides an order entered by the court of competent jurisdiction regarding the payment of same. Until Respondents commence payment of the civil penalties agreed to herein, Respondents shall provide a statement of restitution payments made in each calendar year, together with a statement of the balance due and owing regarding same prior to January 31 of the then current year. Payments to this Board shall commence within sixty (60) days of the time set forth above in amounts of no less than Two Thousand Five Hundred Dollars (\$2,500.00) per quarter made payable to the W. Va. P.E. Board for transfer to the general fund of the State of West Virginia upon receipt, with the total to be paid within two years after commencement of such payment.

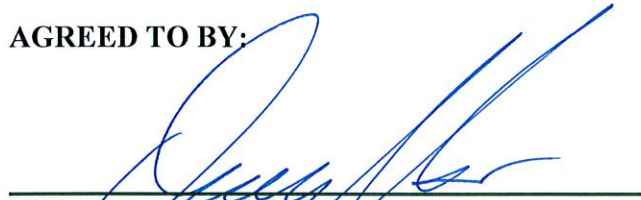
8. The Board **ORDERS** Respondents to pay administrative costs in the amount of One Thousand Five Hundred Dollars (\$1,500.00), which is to be paid within sixty (60) days of the date of entry set forth below, made payable to the W. Va. P.E. Board for deposit into the account of the Board.
9. The sum 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).
10. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
11. If the administrative costs totaling One Thousand Five Hundred Dollars (\$1,500.00) or the civil penalties totaling Twenty-Five Thousand Dollars (\$25,000.00) are not paid or the payment is no longer held in abeyance pursuant to the terms of this Consent Order,

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. 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.

12. 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.
13. 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.

[signature lines appear next page]

AGREED TO BY:



DANIEL R. DENNIS, III
On his own behalf and as Owner and Chief Executive Officer
of DENNIS CORPORATION
Respondents

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 15 day of November, 2017.

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

By: 

EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT

PREPARED BY:

PATRICK MORRISEY
West Virginia Attorney General

By: **DEBRA L. HAMILTON (WV Bar No. 1553)**
Deputy Attorney General
Counsel for West Virginia State Board of Registration for Professional Engineers

REVISED AND APPROVED BY:

By: 

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