

RECEIVED

MAR 23 2018

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

WV PE BOARD

**IN RE: RYAN ENGINEERING, INC.**

RECEIVED  
C2018-14/ED

APR 13 2018

**CONSENT ORDER**

WV PE BOARD

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 Ryan Engineering, 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, which is organized under the laws of the State of Arkansas, applied to renew its Certificate of Authorization ("COA") No. C01497 for the 2018-2019 renewal period on December 5, 2017.
3. On the COA application, Respondent Firm answered "No" to the questions whether Respondent Firm had ever been subject to any disciplinary action or investigation by any local, state or national regulatory body.
4. Upon further investigation, the Board learned that a consent order had been signed with the South Carolina Board in August 2013, requiring Respondent Firm to pay civil penalties for performing engineering services on nine projects in South Carolina (hereinafter the "SC Disciplinary Action").

5. Thus, the misinformation that gives rise to this complaint was misinformation that was also provided in the applications for the July 1, 2014 – December 31, 2015 licensure period, and the 2016-2017 licensure period (the first year of the biennial renewal); i.e. none of the three renewal applications since August 2013 disclosed the SC Disciplinary Action.
6. Respondent Firm represents that it has not been disciplined or, to its knowledge, the subject of any investigation by an administrative or law enforcement agency, since the SC Disciplinary Action.
7. While the SC Disciplinary Action should have been disclosed in the renewal application received on May 30, 2014, the Board limits this charge to only one count since, had it been reported in that renewal application, it need not have been reported thereafter.
8. The Board, at its regular meeting on January 25, 2018, moved to initiate a complaint against Respondent Firm alleging that it perpetrated a fraud or deceit in obtaining its COA, which, by agreement of the parties, is reduced herein to providing misinformation to the Board.
9. Complaint Number C2018-14 was served on January 30, 2018, and the parties have agreed to resolve same in lieu of Respondent Firm's filing a response.
10. Respondent Firm admits it provided misinformation to the Board in that it never disclosed the SC Disciplinary Action on any renewal application filed with this Board subsequent to that discipline.
11. The Board has taken into account the following factors in reaching this settlement: there was no risk of harm to the public, and Respondent Firm cooperated in the resolution of this Complaint.

12. 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 the original and amended complaint.

### **CONCLUSIONS OF LAW**

13. 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.*
14. Andrew Bradford, as Board Secretary of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.
15. Providing misinformation 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. 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.

20. 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**

Andrew Bradford, as Board Secretary of Respondent Firm and on its behalf, agrees to the following:

21. 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.
22. Respondent Firm admits it never disclosed the SC Disciplinary Action on any of the three (3) COA applications submitted after that action.
23. 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.
24. 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 Mr. Bradford and Respondent Firm even if the Board does not approve this Consent Order.

25. 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 based on the complaint as filed.
26. 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 related or unrelated disciplinary matter involving Respondent Firm which may be before this Board.
27. Respondent Firm understands that the original 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.
28. 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").
29. 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 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.

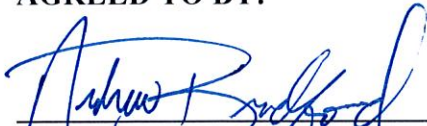
30. Respondent Firm acknowledges that proof of any material misstatement or misrepresentation made in connection with this matter may result in the rescission of this agreement, the reinstatement of the Complaint as amended, the summary revocation of any certification issued to Respondent Firm by the Board, and the addition of any other charges which may arise or ensue from 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 C2018-14 pursuant to W. Va. Code § 30-13-22(b).
2. The Board **ORDERS** Respondent Firm to pay a civil penalty of Five Hundred Dollars (\$500.00) for providing misinformation to the Board in that it never disclosed its SC Disciplinary Action on any renewal application from 2014 to date.
3. The civil penalty imposed herein of 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.
4. 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).

5. Any violation of the terms of this Consent Order shall be immediate cause for rescission of this agreement, the reinstatement of the Complaint, the summary revocation of the certification issued to Respondent Firm by the Board, and further disciplinary action by the Board.
6. 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.
7. 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.
8. 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 related or unrelated disciplinary matter involving Respondent Firm which may come before this Board.
9. 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:**

  
\_\_\_\_\_  
ANDREW BRADFORD, SECRETARY  
RYAN ENGINEERING, INC.

3/19/18

\_\_\_\_\_  
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 10<sup>th</sup> day of April, 2018.

**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*

**APPROVED BY:**

  
\_\_\_\_\_  
Carl L. Fletcher, Jr. (WV Bar #1225)  
Hendrickson & Long, PLLC  
214 Capitol Street  
Charleston, WV 25301  
(304) 720-5530  
Fax: (304) 346-4433  
cfletcher@handl.com

*Counsel for Ryan Engineering, Inc.*