

JUL 08 2016

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

**IN RE: JEFFREY C. WOODCOCK
 CIVIL & ENVIRONMENTAL CONSULTANTS, INC.**

C2016-15

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 Jeffrey C. Woodcock, who is employed by Civil & Environmental Consultants, Inc., which was added as a Respondent as part of the resolution of this matter (hereinafter “Respondent CEC”). Respondents are represented by Paul A. Konstanty and the law firm of Steptoe & Johnson PLLC. A related Board-initiated Complaint against CEC-employee Jonathan M. Niemiec, C2016-14, is hereby dismissed. 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. The Complaint initiated by the Board on November 19, 2015, concerned work performed by Respondent CEC in Marshall County, West Virginia.
3. Respondent CEC is a corporation organized under the laws of the State of Pennsylvania, with its principal place of business in Pittsburgh, and President, Kenneth R. Miller is its President.
4. Respondent CEC has held a Certificate of Authorization to practice engineering in West Virginia for several years (COA #C02231).
5. Another employee, Douglas M. Clark, holds a license to practice engineering in West Virginia [“Engineer Clark”] and was involved in the project that is the subject matter of this Complaint.

6. The Complaint relates to a letter dated April 15, 2015, which presented foundation recommendations for a processing facility in Marshall County [“the project”] and which was signed by Respondent Woodcock and Mr. Niemiec, who are licensed professional engineers in Pennsylvania and other jurisdictions, but not licensed in the State of West Virginia.
7. This letter was revised and again signed by the two unlicensed individuals on July 22, 2015, and revised again on November 9, 2015, to add the signature of Engineer Clark. [Inasmuch as the complaint against Mr. Niemiec has been dismissed, subsequent involvement by Mr. Niemiec is omitted for the most part as irrelevant to the resolution of this Complaint.]
8. None of the versions of the letter bore the seal of a West Virginia professional engineer.
9. Prior to the filing of the complaints, Engineer Clark sent a response to Board staff stating that, while much of the work for the project was performed directly under his responsible charge, he was not aware of the April 15th letter and had not reviewed same.
10. Engineer Clark also discussed Respondent Firm’s internal policy for having all work reviewed and stated that these quality assurance policies had been followed but for the review not being performed by an engineer licensed in West Virginia.
11. The response also stated the CEC’s senior management had begun a process to reinforce the need for engineers in responsible charge to be licensed in the state in which work was being performed, and CEC President Miller sent out an email to that effect on November 9, 2015.
12. Respondents, through counsel, requested an informal conference with the Board, which occurred on January 26, 2016, at which time Respondents informed the Board that the geotechnical letter report was not actually used since the overall project was postponed and moved to another location before any work was performed.
13. Thereafter, a representative of Respondent Firm contacted the Board requesting that Board staff give a presentation about West Virginia Engineering Law to the professional

engineers at their West Virginia office in Bridgeport, and the Board agreed to participate in such a presentation at an agreed-upon time.

14. In negotiating this settlement, the Board agreed to dismiss C2016-14 and to allow Respondent Firm to be added to C2016-15 for the purpose of accepting the disciplinary action for the failure to seal the engineering work submitted to the client.
15. The Board has taken into account the following factors in reaching this settlement: Respondent Firm's prompt response prior to the filing of the Complaint and interest in further educating their professional engineers on West Virginia Engineering Law; Respondents' lack of prior discipline by the Board; the absence of risk of harm to the public given that the geotechnical letter report was for a project that did not proceed; and Respondents' cooperation in the resolution of this Complaint.
16. The Board has incurred administrative costs in connection with C2016-14 and C2016-15 in the approximate amount of One Thousand Eight Hundred Dollars (\$1,800.00) 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. Practicing or offering to practice engineering, as defined by W.Va. Code § 30-13-1, *et seq.*, without a license, to which Respondent Woodcock has admitted, is an action that could subject an individual to discipline by the Board, including a civil penalty in the amount of Five Thousand Dollars (\$5,000.00). W.Va. Code R. § 7-1-15.1.
19. A registrant's seal is used to identify his or her professional work. W.Va. Code § 30-13-16(c).
20. A registrant's seal and signature shall appear on the first or title page of all final and/or record documents presented to a client or any public or governmental agency to certify

that the work was done by a registrant or under the control of a registrant. W.Va. Code R. § 7-1-7.3(a).

21. 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.
22. Failure to affix a seal and signature on a final drawing presented to a client in violation of W.Va. Code R. § 7-1-7.3(a) is a form of misuse of seal, for which the Board can assess a civil penalty of up to Five Thousand Dollars (\$5,000.00). W.Va. Code R. § 7-1-15.1
23. 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.
24. 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

25. Jeffrey C. Woodcock, individually, and Civil & Environmental Consultants, Inc., (“CEC”) by and through its President, Kenneth R. Miller, P.E., agree to the following:
26. Respondents are represented by counsel and are aware of their rights, both individually and jointly, 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.

27. Respondent Woodcock admits he practiced engineering in West Virginia without a license by signing engineering work presented to a West Virginia client, in violation of West Virginia engineering law.
28. Respondent CEC admits that it failed to prevent the practice of professional engineering in the State of West Virginia without the supervision of a professional engineer registered in the State of West Virginia.
29. Respondents accept the findings set forth above and consent to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion, but also does so in order to avoid the costs, expenses and uncertainty of a hearing before the Board.
30. Respondents acknowledge that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board action on C2016-14 and C2016-15. This paragraph is binding upon Respondents even in the event that the Board does not approve this Consent Order.
31. Should the Board not approve this Consent Order, Respondents waive any objections to the Board or any of its members participating in the adjudication of this matter based on the Board's participation in the informal conference and considering this Consent Order. This paragraph is binding on Respondents even if the Board does not approve this Consent Order.
32. 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.
33. 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 Respondents which may be before this Board.

34. Respondents understand that this Complaint, Complaint C2016-14, documents submitted to the Board by Respondents, 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.
35. Respondents agree that the sum and substance of the Complaints 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).
36. Respondents acknowledge that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaints, the summary revocation of any license or certification issued to Respondents by the Board, and the addition of any other charges which may arise or ensue from non-compliance with this Consent Order.
37. 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 Complaints, the summary revocation of any license or certification issued to Respondents 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 C2015-14 is dismissed and that this Consent Order shall serve as settlement of Complaint C2016-15 pursuant to W.Va. Code § 30-13-22(b).

2. The Board **ORDERS** Respondent Woodcock be reprimanded for permitting the practice of professional engineering without a license and without supervision by a professional engineer registered in the State of West Virginia.
3. The Board **ORDERS** Respondent Woodcock to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering in West Virginia without a license.
4. The Board **ORDERS** Respondent CEC to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for failing to prevent the unlicensed practice of engineering in West Virginia.
5. The Board **ORDERS** that Respondents pay administrative costs in the discounted amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00).
6. 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.
7. The administrative costs agreed to herein in the discounted amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) shall be paid by separate payment within thirty (30) days from the date of entry, such amount to be made payable to the W. Va. P.E. Board.
8. 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).
9. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.

10. If the civil penalties of Five Hundred Dollars (\$500.00) and the Administrative Costs of One Thousand Two Hundred Fifty Dollars (\$1,250.00) are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondents upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750.00), 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 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 Respondents 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.

AGREED TO BY:



JEFFREY C. WOODCOCK, individually

7/7/16
DATE



CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
By: Kenneth R. Miller, President

7/7/16
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 19th day of July, 2016.

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

By: 
EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT

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