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WV PE BOARD
BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: ANDREWS, HAMMOCK & POWELL, INC., and
 JAMES A. ANDREWS, JR.

C2019-11

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Bhajan S. Saluja, P.E., its President, (hereinafter "the Board") for the purpose of agreeing to resolve a Board-initiated Complaint seeking disciplinary action against Andrews, Hammock & Powell, Inc. ("Respondent Firm") and James A. Andrews, Jr., ("Respondent Andrews") (collectively "Respondents"). As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter, and the Board, upon approval of this 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 a corporation organized under the laws of the State of Georgia with its principal place of business in Macon, Georgia.
3. The Respondent Firm on June 11, 2018 applied for a Certificate of Authorization (COA# C05843), and it was activated on June 13, 2018. The application proposed that the Registered Individual in Responsible Charge would be Respondent Andrews.
4. That Respondent Firm on its application for a COA answered "No" to the question, "Is this firm currently practicing or even offering to provide engineering services for projects in WV?" This answer was verified by Respondent Andrews in his capacity as an authorized agent of the Respondent Firm.
5. Respondent Firm did not hold a Certificate of Authorization (COA) prior to offering engineering services and practicing engineering in West Virginia.
6. Respondent Andrews is a licensed professional engineer in Georgia, and other states.

7. Respondent Andrews' application for his West Virginia P. E. License was received by the Board on April 24, 2018, and he was issued a P. E. License No. 023061 on June 13, 2018.
8. Respondent Andrews on his application for a P. E. License answered "No" to the question, "Are you currently practicing or even offering to provide engineering services for projects in WV?" This answer was verified by Respondent Andrews.
9. The Board received information that the Respondent Firm had, prior to June 13, 2018, offered to provide engineering services and did provide engineering services by submitting mechanical, electrical and plumbing (MEP) drawings for a project located in Beckley, West Virginia. Said drawings were dated June 1, 2018.
10. The Board also received information that Respondent Andrews had also, prior to June 13, 2018, offered to provide engineering services and did provide engineering services on the West Virginia project.
11. These facts resulted in a Board-initiated investigation, which disclosed that Respondent Firm had offered engineering services and had practiced engineering without the required COA, and that it had, or attempted to, perpetrate fraud and deceit in obtaining a Certificate of Authorization.
12. These same facts also disclosed that Respondent Andrews had offered engineering services and had practiced engineering without the required license, and that he had, or attempted to, perpetrate fraud and deceit in obtaining a Certificate of Registration.
13. The Board initiated Complaint Number C2019-11 at its regular meeting on September 18, 2018, which was filed and served on September 24, 2018.
14. The Respondents filed a timely response to the Complaint on October 15, 2018.
15. The Respondents and the Board agreed to settle this matter in lieu of further formal administrative proceedings.
16. Respondent Firm admits that it offered to provide engineering services, and did provide engineering services in West Virginia without a COA, and that it failed to answer the application question "Are you currently practicing or even offering to provide engineering

services for projects in WV?” in the affirmative. Respondent Firm contends that the said submission was an inadvertent error.

17. Respondent Andrews admits that he offered to provide engineering services, and did provide engineering services in West Virginia without the required Certificate of Registration. He denies that he committed or attempted to commit any fraud or deception through his application for a WV Certificate of Registration.
18. By agreement of the parties, the Respondent Firm’s alleged violation of fraud or deceit is herein reduced to the charge of providing misinformation to the Board, and Respondent Andrews’ alleged violation based on fraud or deceit is dismissed.
19. The Board has considered the following factors in reaching this settlement: neither Respondent self-reported or acknowledged the aforesaid misinformation prior to the Board-initiated investigation; there was no risk of harm to the public; the violations did not pose harm to the public; Respondent Andrews applied for and received a Certificate of Registration and was in good standing prior to the initiation of this Complaint; Respondent Firm also applied for and received a COA and it was in good standing with the Board prior to the initiation of this Complaint; and Respondents cooperated in the resolution of this Complaint.
20. 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

21. 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.*
22. James A. Andrews, Jr., as the President of Respondent Firm, has the power and authority to make admissions, and otherwise act on behalf of Respondent Firm. In addition,

Respondent Andrews has the power and authority to make admissions, and otherwise act on his own behalf.

23. West Virginia engineering law allows a firm to practice engineering or to offer engineering services only upon the issuance of a Certificate of Authorization by the Board. W. Va. Code §30-13-17.
24. It is unlawful for any person to practice or offer to practice engineering, as defined by W. Va. Code §30-13-3(e), in the State of West Virginia unless that person is duly registered under the provisions of West Virginia engineering law. W. Va. Code §30-13-2.
25. The provisions of W. Va. Code §30-13-21(a) are applicable as appropriate to unlicensed persons and firms. W. Va. Code §30-13-21(b) and (d).
26. The Board may reprimand, suspend or revoke or refuse to issue, restore or renew a certificate of registration or authorization, or place on probation, impose a civil penalty or reprimand any professional engineer or firm, 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), (b) and (d), and §30-13-22(d).
27. Providing false information to the Board is a basis for disciplinary action by the Board. W. Va. Code §30-13-21(a)(12).
28. 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.
29. Practicing engineering, as defined by W. Va. Code § 30-13-3(e), without a valid Certificate of Authorization is an action that may subject a firm to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00) for each offense. W. Va. Code R. §7-1-15.1.

30. Practicing engineering, as defined by W. Va. Code § 30-13-3(e), without a license is an action that may subject a person to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00) for each offense. W. Va. Code R. §7-1-15.1.
31. 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) for each offense. W. Va. Code R. §7-1-15.1.
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 THE RESPONDENTS

James A. Andrews, Jr., individually, and as the President of Respondent Firm, by affixing his signature hereon, agrees to the following on behalf of himself, and Respondent Firm, Andrews, Hammock & Powell, Inc.:

34. Respondents are aware of their rights to be represented by counsel in this matter and to pursue this matter through appropriate administrative and/or court procedures, including its right to a formal hearing before the Board, and said Respondents, and after having the opportunity to consult with their counsel, Smith, Hawkins, Hollingsworth & Reeves, LLP., the Respondents, intelligently and voluntarily, enter into this Consent Order to resolve Complaint, C2019-11; provided the Board accepts the terms and conditions set forth in this Consent Order.

35. Respondent Firm admits it did not have a Certificate of Authorization to practice engineering or offer engineering services in the State of West Virginia at the time it offered and practiced engineering in West Virginia, in violation of West Virginia engineering law.
36. Respondent Firm admits that it submitted a COA application which contained misinformation regarding its engineering work in West Virginia.
37. Respondent Andrews admits that he did not have a license to practice engineering in the State of West Virginia when he offered and practiced engineering in West Virginia, in violation of West Virginia engineering law.
38. 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, and after having time in which to confer with their counsel.
39. Respondents acknowledge that this Consent Order is being executed for the purpose of avoiding further administrative action with respect to the above-styled matter. In this regard, Respondents authorize the Board to review and examine all investigative file materials concerning Respondents' activities in West Virginia in consideration of this Consent Order.
40. 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. This paragraph is binding on Respondents even if the Board does not approve this Consent Order.
41. 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.
42. 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 disciplinary matter involving Respondents, or either of them, which may be before this Board.

43. Respondents understand that the Complaint and this Consent Order are public records which, together with other public documents in the file, must be made available upon legal request in accordance with the State's Freedom of Information Act.
44. 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's 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).
45. 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, non-renewal or non-reinstatement of any Certificate of Registration issued to Respondent Andrews and/or Certificate of Authorization issued to Respondent Firm by the Board, and the addition of any other charges which may arise or ensue from Respondents' non-compliance with this Consent Order.
46. Respondents acknowledge that proof of any material misstatement or misrepresentation made in connection with this matter will result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation, non-renewal or non-reinstatement of any Certificate of Registration issued to Respondent Andrews and/or Certificate of Authorization 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.

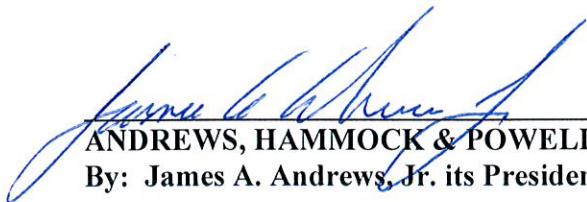
ORDER

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 C2019-11 pursuant to West Virginia Code § 30-13-22(b).
2. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for offering to practice engineering without a Certificate of Authorization.
3. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a Certificate of Authorization.
4. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for providing misinformation to the Board in its application for a Certificate of Authorization.
5. The Board **ORDERS** Respondent Andrews to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for offering to practice engineering without a license.
6. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a license.
7. The civil penalty imposed herein totaling One Thousand, Five Hundred Dollars (\$1,500.00) 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.
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’s 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 penalty imposed herein is not paid within thirty (30) days of the date of entry set forth below, then Respondent Firm's COA is hereby **ORDERED REVOKED**. Said revoked COA may be restored once the civil penalty is paid, and Respondent Firm pays the appropriate fees, and is otherwise in good standing with the Board. West Virginia Code § 30-13-21(d)(1).
11. This Consent Order may be summarily enforced in the Circuit Court of Kanawha County, West Virginia, 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 of One Thousand, Five Hundred Dollars (\$1,500.00), 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.
12. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty agreed to herein, except as to the provisions set forth in paragraph 10, above, regarding revocation of Respondent Firm's COA, and its affects shall survive the closure of this Consent Order.
13. 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. This shall not prohibit the Board from considering this disciplinary action or the circumstances giving rise to the same with regard to any future disciplinary matter involving Respondent Firm which may come before this Board.
14. 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 line appears on next page)

AGREED TO BY:



ANDREWS, HAMMOCK & POWELL, INC
By: James A. Andrews, Jr. its President

12/4/2018
DATE

And

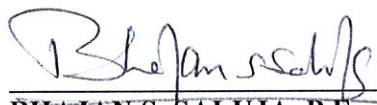


JAMES A. ANDREWS, JR.
Individually.

12/4/2018
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 10 day of December, 2018.

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

By: 

BHAJAN S. SALUJA, P.E.
BOARD PRESIDENT