

RECEIVED

JAN 28 2019

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: MARIA L. HARDY, and
MLH CONSULTING, LLC

C2019-09

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 Complaint seeking disciplinary action against Maria L. Hardy (hereinafter “Respondent Hardy”) and MLH Consulting, LLC (hereinafter “Respondent Firm”) (together, the “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 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 Hardy was and is a licensed professional engineer in Ohio, but was not a licensed professional engineer in West Virginia on or about July 5, 2018, when she provided engineering services for a West Virginia project. Since then, Respondent Hardy has applied for comity and obtained a Certificate of Registration, license number 23306, on November 27, 2018.
3. Respondent Hardy is the sole Member of the Respondent Firm which is a Limited Liability Corporation, organized under the laws of the State of Ohio with its principal place of business in Marietta, Ohio.
4. Respondent Firm did not have a Certificate of Authorization at the time it provided engineering services in West Virginia, a time prior to November 27, 2018, when the firm’s Certificate of Authorization (COA# C05917) was activated.

5. A license is required by a person to practice or to offer to practice engineering in West Virginia.
6. A COA is required to practice or to offer to practice engineering in West Virginia.
7. The Board received information that Respondent Firm had provided engineering services in West Virginia by submitting an engineering opinion for a project located in Wood County, West Virginia. Said engineering opinion was dated July 5, 2018.
8. The Board also received information that Respondent Hardy had also provided engineering services on this West Virginia project on or before July 5, 2018.
9. These facts resulted in a Board-initiated investigation, which disclosed that Respondent Firm had practiced engineering without the required COA.
10. These same facts also disclosed that Respondent Hardy had practiced engineering without the required license.
11. The Board initiated Complaint Number C2019-09 at its regular meeting on September 18, 2018, which was filed and served on September 24, 2018.
12. The Respondents filed a timely response to the Complaint on or about October 1, 2018.
13. The Respondents and the Board agreed to settle this matter in lieu of further formal administrative proceedings.
14. Respondent Firm admits that it provided engineering services in West Virginia without a COA.
15. Respondent Hardy admits that she provided engineering services in West Virginia without the required Certificate of Registration.
16. The Board has considered the following factors in reaching this settlement: the violations did not pose harm to the public; Respondent Hardy applied for comity and obtained her registration; Respondent Firm applied for and obtained a COA; and Respondents cooperated with the Board's investigation.

17. 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

18. 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.*
19. Maria L. Hardy, as Member of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.
20. Failure to comply with any of the provisions of W. Va. Code §30-13-1 *et seq.*, or any of the rules promulgated under West Virginia Code Chapter 30, Article 13, is a basis for disciplinary action by the Board. W. Va. Code §30-13-21(a)(4).
21. It is unlawful for any person to practice or offer to practice engineering, as defined by West Virginia 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.V. Code §30-13-2.
22. West Virginia engineering law allows a firm to practice or offer to practice engineering only upon the issuance of a Certificate of Authorization by the Board. W. Va. Code §30-13-17.
23. Respondents practiced engineering without the required license and COA, in violation of W. Va. Code §30-13-21(a)(4).
24. 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 and W. Va. Code R. §7-1-15.

25. 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). W. Va. Code R. §7-1-15.1.
26. 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). W. Va. Code R. §7-1-15.1.
27. In determining the amount of a civil penalty to be assessed, the Board may consider such factors as the following: whether the amount imposed will be a substantial economic deterrent to the violation; the circumstances leading to the violation; the nature and severity of the violation and the risk of harm to the public; the history of previous violations; the extent to which the cited person or firm has cooperated with the Board and the Board's investigation; the economic benefits gained by the violator as a result of the non-compliance; the interest of the public; and other matters as may be appropriate. W. Va. Code R. §7-1-15.4
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 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).
29. The provisions of W. Va. Code §30-13-21(a) are applicable as appropriate to firms. W. Va. Code §30-13-21(d).
30. 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

Maria L. Hardy, individually, and as the Member of Respondent Firm, by affixing her signature hereon, agrees to the following on behalf of herself and MLH Consulting, LLC:

31. 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

their right to a formal hearing before the Board, and said Respondents, intelligently and voluntarily, waive these rights, provided the Board accepts the terms and conditions set forth in this Consent Order.

32. Respondent Firm admits that it provided engineering services for a West Virginia project when it did not possess a Certificate of Authorization in violation of West Virginia engineering law.
33. Respondent Hardy admits that she did not have a license to practice engineering in the State of West Virginia when she provided engineering services in West Virginia, in violation of West Virginia engineering law.
34. 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.
35. 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.
36. 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.
37. 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.
38. 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.

39. 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.
40. 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).
41. 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 Hardy 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.
42. 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 Hardy 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 No. C2019-09 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 practicing engineering without a Certificate of Authorization.


3. The Board **ORDERS** Respondent Hardy to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a license.
4. The civil penalties imposed herein must be paid within thirty (30) days of the date of entry set forth below, and such amounts 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.
5. If the civil penalty of Two Hundred and Fifty Dollars (\$250.00) imposed herein as to Respondent Hardy is not paid within thirty (30) days of the date of entry set forth below, then Respondent Hardy’s Certificate of Registration is hereby **ORDERED REVOKED**. Said revoked Certificate of Registration may be restored once the civil penalty is paid, and Respondent Hardy pays the appropriate fees, and is otherwise in good standing with the Board. West Virginia Code §30-13-21(a).
6. If the civil penalty of Two Hundred and Fifty Dollars (\$250.00) imposed herein as to Respondent Firm 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).
7. 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).
8. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
9. 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 Two Hundred & Fifty Dollars (\$250.00) per Respondent, together with pre-judgment interest

from the date of the Board 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.

10. 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, except as to the provisions set forth in paragraphs numbered 5 and 6, of this section, regarding revocation of Respondent Hardy's Certificate of Registration, and/or Respondent Firm's COA, and its effects shall survive the closure of this Consent Order, as applicable hereto.
11. 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 Respondents which may come before this Board.
12. 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:


MLH CONSULTING, LLC
By: MARIA L. HARDY, Member

1/25/19
DATE

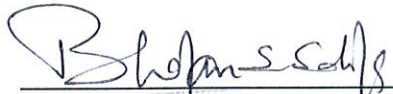
And


MARIA L. HARDY
Individually.

1/25/19
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this 29 day of January, 2019.

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

By: 
BHAJAN S. SALUJA, P.E.
BOARD PRESIDENT