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WV REGISTRATION BOARD WV REGISTRATION BOARD

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: MALLIA ENGINEERING COMPANY, INC.
MAURICE MALLIA

C2007-25

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president, and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia (hereinafter "the Board") for the purpose of agreeing to disciplinary action to be taken against Mallia Engineering Copmany, Inc. [hereinafter at times referred to as Respondent Firm] and Maurica Mallia [hereinafter at times referred to as Respondent Mallia]. 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 Board is a state entity created by West Virginia Code §30-13-1 *et seq.* and is empowered to regulate the practice of professional engineering pursuant to West Virginia Code §30-13-1 *et seq.*
2. Mallia Engineering Company, Inc., is a corporation organized under the laws of the State of Tennessee with its office in Knoxville.
3. Maurice Mallia is the owner of Mallia Engineering Company, Inc., and is a professional engineer licensed in the State of Tennessee and other states, but has never been licensed as a professional engineer in the State of West Virginia.
4. Maurice Mallia, as the owner of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Mallia Engineering Company, Inc.
5. Respondents self-reported their practice of engineering in West Virginia, stating that their current work was the first work in this State and that Respondent Firm's failure to

register for a certificate of authorization (COA) and Respondent Mallia's failure to become licensed in the State were the result of erroneous filing.

6. Respondent Mallia immediately filed a comity application for licensure in West Virginia which, upon issuance, will qualify Respondent Firm for a COA.
7. In order to expedite the settlement and as a result of prior communications between Board staff and Respondents, Respondents requested that this consent order be entered into without prior service of the board-initiated complaint, a copy of which was provided to Respondent simultaneously with this consent order.
8. Respondents admit they provided engineering services in the State of West Virginia without a license to practice engineering in this State and without a valid COA.
9. Respondents' conduct in connection with this Complaint, including the self-reporting and cooperation and candor with the Board in this matter, mitigates Respondents' culpability regarding the admitted violations of West Virginia engineering law.
10. Based on the foregoing, the Board, in its discretion, will not assess administrative costs although the Board finds it is within its power to assess such costs.
11. Respondents have waived their right to a hearing on this matter and other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board.

CONCLUSIONS OF LAW

12. It is unlawful for any person to practice or offer to practice engineering in the State of West Virginia unless that person is duly registered under the provisions of West Virginia engineering law. West Virginia Code §30-13-2.
13. 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. West Virginia Code §30-13-17.
14. 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.” West Virginia Code §30-13-21(b); see *also* W. Va. Code §30-13-21(d)(4).

15. Practicing engineering without a license, to which Respondent Mallia has admitted herein, is an action that would subject a person to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
16. Practicing or offering to practice engineering without a valid COA, to which Respondent Firm has admitted herein, is an action that could subject a firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
17. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF RESPONDENT

Maurice Mallia, individually and as owner of Mallia Engineering Company, Inc., by affixing his signature hereon, agrees to the following on behalf of himself and Respondent firm:

18. Respondents are aware of their right to be represented by counsel and of their option to pursue this matter through appropriate administrative and/or court procedures, but Respondents intelligently and voluntarily waive their right to do so.
19. Respondents intelligently and voluntarily waive their right to service of the Complaint by certified mail and their right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
20. Respondent Mallia admits he practiced engineering in West Virginia without a valid license.
21. Respondent Firm admits it practiced engineering in West Virginia without the required certificate of authorization.

22. 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.
23. Respondents acknowledge that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate.
24. Respondents acknowledge that proof of any 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 of any license or certificate of authorization issued to Respondents, 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

25. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).
26. The Board **ORDERS** Respondent Mallia to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering in West Virginia without a license.
27. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering in West Virginia without a certificate of authorization.
28. The civil penalties imposed herein must be paid within thirty (30) days of the date Respondents receive notice of the Board President's signature hereon, 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.

29. Respondents will not practice or offer to practice engineering in the State of West Virginia unless and until Respondent Mallia holds a valid license and Respondent Firm holds a valid Certificate of Authorization issued by this Board, which license and COA shall not issue until Respondent has qualified for same and paid the civil penalties imposed herein.
30. Respondents acknowledge this Consent Order and the underlying Complaint are public records and agree that the sum and substance of the Complaint and this agreement in part or in their entirety may 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).
31. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
32. 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 action except an action to enforce the terms of this Consent Order.
33. If the civil penalties imposed herein are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondent upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein (\$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.
34. 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.

35. This Consent Order relates solely to matters within the jurisdiction of the West Virginia Board of Registration for Professional Engineers 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.

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

By: 
LEONARD J. TIMMS, P.E.
Board President

Date: June 27, 2007


By **MAURICE MALLIA**, Individually and on behalf of
MALLIA ENGINEERING COMPANY, Inc.

Date: JUNE 20, 2007