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BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: VARO ENGINEERS, INC.

C2009-8

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, Nicole A. Cofer, Assistant Attorney General for the State of West Virginia (hereinafter "the Board") for the purpose of agreeing to disciplinary action to be taken against Varo Engineers, Inc. (hereinafter "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 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. Respondent Firm, Varo Engineers, Inc., is organized under the laws of the State of Ohio with its office in Dublin
3. Tim Burnham, as the President of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Varo Engineers, Inc.
4. The Board was made aware of Respondent Firm's practicing without a Certificate of Authorization and the practice of at least one employee without a professional engineering license and contacted Respondent Firm regarding the same; thereafter, the Board-initiated complaint was filed in November 18, 2008.

5. Respondent Firm admits they provided engineering services for a project located in the State of West Virginia without a license to practice engineering in this State and without a valid Certificate of Authorization.
6. Respondent Firm's prompt response in connection with this Complaint mitigates Respondent Firm's culpability regarding the admitted violations of West Virginia engineering law; therefore, based upon the foregoing, the Board, in its discretion, will not initiate complaints against individual engineers from Respondent Firm in this matter for practicing engineering in West Virginia without a license although the Board does find that it is within their power to bring such a complaint.
7. Respondent Firm has 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

8. 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.
9. 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).

10. 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.
11. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF RESPONDENT

Tim Burnham, as President of Varo Engineers, Inc., by affixing his signature hereon, agrees to the following on behalf of Respondent Firm:

12. Respondent Firm is 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 Respondent Firm intelligently and voluntarily waives their right to do so.
13. Respondent Firm intelligently and voluntarily waives 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.
14. Respondent Firm admits it contracted to provide engineering services for a project in West Virginia without the required Certificate of Authorization.
15. Respondent Firm accepts the findings set forth above and consent to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

16. Respondent Firm acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate.
17. Respondent Firm acknowledges 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 Respondent Firm, 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

18. 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).
19. The Board **ORDERS** Respondent Firm to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for practicing engineering in West Virginia without a Certificate of Authorization.
20. The civil penalties imposed herein must be paid within thirty (30) days of the date Respondent Firm receives 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.
21. The Board **ORDERS** Respondent Firm to pay administrative costs in the amount of

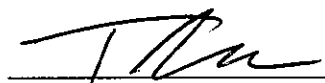
Two Hundred Ninety-three dollars and Fifteen cents (\$293.15).

22. The administrative costs imposed herein must be paid within thirty (30) days of the date Respondent Firm receives notice of the Board President's signature hereon, such amount to be made payable to the W.Va. P.E. Board (Administrative Costs). This payment must be separate from that of the civil penalties imposed above.
23. Respondent Firm will not practice or offer to practice engineering in the State of West Virginia unless and until Respondent Firm has any employee practicing in West Virginia who holds a valid license and Respondent Firm holds a valid Certificate of Authorization issued by this Board, which license and Certificate of Authorization shall not be issued until Respondent Firm has qualified for same and paid the civil penalties imposed herein.
24. Respondent Firm acknowledges 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 and national enforcement databases, as well as other appropriate placements.
25. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
26. 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.

27. 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 Firm 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.
28. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty and administrative costs agreed to herein.
29. 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

AGREED TO BY:



TIM BURNHAM, on behalf of
VARO ENGINEERS, INC.

01/12/2009
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this:

30 day of January, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS,

By: Leonard J. Timms Jr.
LEONARD J. TIMMS JR., P.E.,
BOARD PRESIDENT

01/27/09
DATE