

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

RECEIVED

AUG 1 - 2005

WV REGISTRATION BOARD

IN RE: Don H. Andelmo

C-2005-5

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president (hereinafter the "Board"), and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia, for the purpose of agreeing to disciplinary action which shall be taken against Don H. Andelmo of Andelmo Engineering in North Huntington, Pennsylvania. 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. Don H. Andelmo is president of Andelmo Engineering, an engineering firm in North Huntington, Pennsylvania.
3. This Complaint was submitted by Scott Howard Sanders, a West Virginia professional engineer, on June 10, 2005, and was served upon Respondent by certified mail dated June 21, 2005.
4. This complaint alleged that Mr. Andelmo engaged in the unlicensed practice of engineering and practiced engineering without the required certificate of authorization (COA).
5. The complainant, Mr. Sanders, further requested this Board consider Mr. Andelmo's conduct complained of to be an action that deceives the public.

6. The action complained of is as follows: "Preparation of engineering documents for a new church in Stanaford, West Virginia."

7. Mr. Andelmo filed a response with the Board dated June 28, 2005.

8. In said Response, Mr. Andelmo states the documents he prepared were for renovations to an existing church and sets forth the scope of that project.

9. In said response, Mr. Andelmo admits he performed the work, that he is not currently registered as a professional engineer in West Virginia, and he does not have a COA for his company to perform work in this state.

10. In his defense, Mr. Andelmo states the architectural firm of Hayes Design Group approached him to consult on the project and that he advised them he was not currently registered in West Virginia. An architect with that firm, after consulting with Raleigh County authorities, informed him that the drawings would be sealed by an architect, a PE stamp would not be required, and that the work could be done under the architect's supervision.

11. The Board has confirmed that Hayes Design Group is currently licensed in the State.

12. The Board makes no findings regarding the nature and scope of neither the work to be performed, nor the statements or requirements of any local permitting authority.

13. The Board notes that the cover sheet to the church drawings at issue set forth that Mr. Andelmo was a consultant for the mechanical, electrical and plumbing (MEP) aspects of the work, but did not sign and seal the drawings he did.

14. Respondent states that his name, company and logo were to be removed from the documents by addendum, but the bidding process was cancelled.

15. The consulting work performed by Mr. Andelmo was engineering work which required the seal of an engineer licensed to practice in the State of West Virginia, but the Board finds that this work would have constituted the practice of engineering regardless of



whether Mr. Andelmo's name did or did not appear on any of the documents inasmuch as such work must have been outside the qualifications of the architectural firm hiring Mr. Andelmo.

16. The Board finds that Mr. Andelmo's unlicensed practice did have the potential for deceiving the public, but that such potential is *de minimus* under the facts as presented.

17. Respondent states that immediately after being assigned the MEP work on the project he began the process of applying for licensure and discussed same with this Board, resulting in submission of the application to this office without one of the required employment verification forms. Mr. Andelmo further states that he planned to submit an application for a COA of his company upon receipt of this PE license.

18. On June 21, 2005, the Board received Mr. Andelmo's application for licensure by comity, which application has been held pending the resolution of this complaint.

19. Respondent has waived its right to a hearing on this matter and to waive other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board.

20. The Board incurred only minimal expenses with regard to this Complaint, and therefore finds it appropriate to enter into this consent agreement without the imposition of costs.

21. Respondent agrees to accept an informal settlement of Complaint 2005-5.

22. Practicing engineering without a license, to which Respondent has admitted, is an action that would subject a person to discipline by the Board.

### **CONCLUSIONS OF LAW**

23. West Virginia Code §30-13-21 authorizes the Board to discipline any person practicing or offering to practice engineering in the State of West Virginia.

24. Among its other powers, the Board has the power to assess civil penalties

and related costs for each count or separate offense in an amount set by the Board. W. Va. Code §30-13-21(d)(4).

25. Inasmuch as the Board made no findings of fact regarding the scope and nature of the work on the church, this Board is making no conclusions of law regarding the professional seals required by local permitting authorities.

26. Regardless of any legal requirement of a local permitting authority, however, the legislative rules of this Board state as follows:

(a) A registrant's seal and signature shall appear on the first or title page of all final and/or record documents of specifications, reports, drawings, plans, design information and calculations presented to a client or any public or government agency to certify that the work was done by the registrant or under the control of the registrant. 7 C.S.R. §7-1-1.7.3.

27. Practicing engineering without a license, to which Respondent has admitted, is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 C.S.R. 1.15.1.

28. Practicing engineering without a certificate of authorization, to which Respondent has admitted, is an action that would subject a person or firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 C.S.R. 1.15.1.

29. Each day of continued violation may constitute a separate offense. 7 C.S.R. 1.15.3.

#### **CONSENT OF DON ANDELMO**

Don Andelmo, by affixing his signature hereon, agrees to the following:

30. Mr. Andelmo acknowledges he is aware of the option to retain and be represented by legal counsel and/or to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.

31. Mr. Andelmo intelligently and voluntarily waives his right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.

32. Mr. Andelmo acknowledges he cannot solicit or perform engineering work in the State of West Virginia until he holds a licensure and a certificate of authorization issued by this Board.

33. Mr. Andelmo consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

34. Mr. Andelmo 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.

35. Mr. Andelmo acknowledges that, upon proof of any misstatement or misrepresentation made by him in his Response, his application for licensure, or other document relied upon in the entering of this consent agreement, will result in the rescission of this agreement, the reinstatement of the Complaint, and the addition of any other charges which may ensue from providing false information to the Board in violation of West Virginia engineering law.

#### **ORDER**

36. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Agreement shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).

37. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for practicing engineering without a license or certification of authorization.

38. The civil penalty imposed herein must be paid within fifty (50) days of



the date of the signature of the Board President, such penalty to be made payable to the State of West Virginia directly or to the W.V.S.B.R.P.E., which amount shall be transferred to the general fund of the State of West Virginia by the Board upon receipt.

39. Upon receipt of all materials required for issuance of a license, and the civil penalty agreed to herein, the Board will issue a P.E. license to Mr. Andelmo.

40. Upon issuance of the license, Mr. Andelmo must apply for and be issued a COA before practicing or offering to practice engineering in the State of West Virginia.

41. Respondent acknowledges that this Consent Agreement is a public record and agrees that the sum and substance of the nature of the Complaint and this Agreement may be set forth in Board publications and on the Board website, as well as other appropriate placements.

42. Any violation of the terms of this Consent Agreement shall be immediate cause for a hearing and further disciplinary action by the Board.

WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

By:   
Leonard J. Timms, P.E.  
Board President

Date: 8/4/05

  
DON ANDELMO

Date: 7/28/05