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JUN 29 2011

BEFORE THE WEST VIRGINIA STATE BOARD
OF REGISTRATION FOR PROFESSIONAL ENGINEERS

WV PE BOARD

IN RE: COMMUNICATIONS CONSULTING SERVICES, INC. C2010-25

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Edward L. Robinson, P.E., its president (hereinafter “the Board”) for the purpose of agreeing to disciplinary action to be taken against Communications Consulting Services, 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 engineering pursuant to the same.
2. Spruce Knob Seneca Rocks Telephone, Inc, (SKSRT) submitted a third-party complaint against Communications Consulting Services, Inc., (“Respondent Firm”) on June 14, 2010, which was served upon Respondent Firm on June 15, 2010.
3. Respondent Firm, Communications Consulting Services, Inc. is organized under the laws of the Commonwealth of Pennsylvania, with its principal place of business located in Factoryville, Pennsylvania.
4. Joseph L. Loffredo as a president of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent.
5. Respondent Firm filed its response thereto on July 16, 2010.
6. Respondent Firm does not have a license to practice engineering in West Virginia.

7. Respondent Firm does not hold a Certificate of Authorization issued by this Board, and the Board finds that Respondent Firm, at the time of the matters giving rise to this Complaint, did not qualify for a Certificate of Authorization as set forth in W. Va. Code § 30-13-17.

8. The sum and substance of this Complaint alleges as follows:

(a) Respondent Firm entered into a contract for engineering services with Spruce Knob Seneca Rocks Telephone, Inc., in connection with a fiber optic public utility system in Pendleton County, West Virginia;

(b) The project required submissions to the Rural Utility Service (RUS), a federal agency under the U. S. Department of Agriculture, which had to be signed by an engineer;

(c) Respondent Firm has no certificate of authorization to practice engineering in West Virginia and has no employees who are licensed professional engineers in West Virginia; and

(d) Respondent Firm misrepresented that a West Virginia professional engineer was its engineer in responsible charge, even though the West Virginia P.E. was only involved in a portion of the work and was not supervising the project.

9. The Board is not aware of the actual or legal role of the West Virginia professional engineer named by Respondent as its engineer in responsible charge of the project and, therefore, makes no findings regarding said allegation.

10. Upon further investigation, it was learned that a non-engineer, on Respondent Firm's behalf, signed R.U.S. documents appearing to require the signature of an engineer, or that

the signature line appearing to require the signature of an engineer bore Respondent Firm's stamp.

11. Although Respondent Firm maintains that R.U.S. has approved similar documents signed and submitted by Respondent Firm in the same manner as those submitted to R.U.S. in this case, Respondent Firm admits to signing and causing to be signed by a non-engineer documents that appear to require the signature of an engineer.

12. The Board finds that signing documents appearing to require the signature of an engineer tended to convey the impression that Respondent Firm was a registered or licensed engineering firm, in violation of W. Va. Code § 30-13-2.

13. The Board finds that, in signing (or causing to be signed) documents appearing to require the signature of an engineer, Respondent Firm engaged in the unlicensed practice of engineering.

14. The Board takes no position on the manner in which Respondent Firm signed R.U.S. documents for any work Respondent Firm has performed outside the State of West Virginia, as those matters are outside both the Board's jurisdiction and the scope of the Board's inquiry in this matter.

15. The Board took into consideration the following factors in determining the amount of civil penalty set forth herein: the circumstances leading to the violation, the economic benefits gained by Respondent Firm as a result of non-compliance, the interest of the public, and others appropriate matters.

16. The Board finds that Respondent Firm's use of its stamp and having a non-engineer sign a form of a federal agency on its behalf, which form appears to require the signature of an engineer, is an exacerbating circumstance in determining the amount of civil

penalty set forth herein.

17. Respondent Firm's prompt response in connection with this Complaint and admissions regarding same mitigate 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 assess administrative costs although the Board does find that it is within its power to assess such costs according to W. Va. Code § 30-13-21(d)(4) and W. Va. Code § 7-1-14.4.

CONCLUSIONS OF LAW

18. It is unlawful for any person to practice or to offer to practice engineering in this state, as defined in W. Va. Code § 30-13-3(e), or to use in connection with [its] name or otherwise assume or advertise any title or description tending to convey the impression that he or she is a registered or licensed engineer, unless the person has been duly registered or exempted under the provisions of this article. W. Va. Code § 30-13-2.

19. 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.

20. Practicing or offering to practice engineering, as defined by W. Va. § 30-13-1 *et seq.*, without a valid license, 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 Five Thousand Dollars (\$5000.00). W. Va. Code R. § 7-1-15.1.

21. Practicing or offering to practice engineering, as defined by W. Va. § 30-13-1 *et seq.*, without a valid Certificate of Authorization, 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 Five Thousand Dollars (\$5000.00). W.Va. Code R. § 7-1-15.1.

22. In determining the amount of a civil penalty to be assessed, the Board may consider such factors as:

- (a). Whether the amount imposed will be a substantial economic deterrent to the violation;
- (b). The circumstances leading to the violation;
- (c). The nature and severity of the violation and the risk of harm to the public;
- (d). The history of previous violations;
- (e). The extent to which the cited person or firm has cooperated with the Board and the Board's investigation;
- (f). The economic benefits gained by the violator as a result of the noncompliance;
- (g). The interest of the public; and
- (h). Other matters as may be appropriate.

W. Va. Code R. § 7-1-15.4.

23. Each day of continued violation may constitute a separate offense. W.Va. Code R. § 7-1-15.3.

CONSENT OF RESPONDENT FIRM

Joseph L. Loffredo, as President of Communications Consulting Services, Inc., by affixing his signature hereon, agrees to the following:

24. Respondent Firm is represented by counsel.

25. Respondent Firm intelligently and voluntarily waives its right to a formal hearing before the Board in this matter provided the Board accepts the terms and conditions set forth herein.

26. Respondent Firm is aware of its option to pursue this matter through appropriate administrative and/or court procedures, but Respondent Firm intelligently and voluntarily waives its right to do so, in the event that this Consent Order is approved by the Board.

27. Respondent Firm admits it offered to provide engineering services in the State of West Virginia without the required Certificate of Authorization, as defined by West Virginia § 30-13-1 *et seq.*

28. Respondent Firm accepts the findings set forth above and consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.

29. Respondent Firm acknowledges that entering into the negotiation of this Consent Order constitutes a waiver of any and all objections regarding the timeliness of Board action on Complaint Number C2010-25. This paragraph is binding on the participants even in the event that the Board does not approve this Consent Order.

30. Respondent Firm acknowledges 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, Respondent Firm authorizes the Board to review and examine all investigative file materials concerning Respondent Firm prior to or in conjunction with consideration of this Consent Order.

31. Should the Board not approve this Consent Order, Respondent Firm waives any objections to the Board or any of its members participating in the adjudication of this matter.

This paragraph is binding on the participants even if the Board does not approve this Consent Order.

32. Respondent Firm acknowledges that the Board may reject this proposal, complete the hearing, and, upon adjudication, impose such sanctions of a disciplinary nature as it deems appropriate.

33. Upon acceptance by the Board, 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.

34. Respondent Firm understands that this Consent Order, the complaint, the written response and perhaps other written communications regarding same are public records which must be made available upon legal request in accordance with the state's Freedom of Information Act.

35. Respondent Firm agrees 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 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).

36. 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 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

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 C2010-25 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 in West Virginia without a license.

3. 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.

4. The Board **ORDERS** Respondent Firm to pay an additional civil penalty in the amount of Five Hundred Dollars (\$500.00) for signing documents which appeared to require the signature of an engineer, which signatures tended to convey the impression that Respondent Firm was a registered or licensed engineering firm.

5. The civil penalties imposed herein totaling One Thousand Dollars (\$1,000.00) 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. Failure to remit the payment of these civil penalties within the prescribed time period will result in further disciplinary action.

6. Respondent Firm shall not offer engineering services in West Virginia until such time as Respondent Firm can do so legally either by obtaining the certifications required by this

Board or by contracting for same with an engineer or firm in good standing with this Board.

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 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. 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 (\$1,000.00), 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.

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.

11. 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:



JOSEPH L. LOFFREDO, President PRESIDENT
COMMUNICATIONS CONSULTING SERVICES, INC.

JUNE 21, 2011
DATE

ENTERED into the records of the West Virginia State Board of Registration for Professional Engineers this: 30th day of June, 2011.

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

By:



EDWARD L. ROBINSON, P.E.
BOARD PRESIDENT

PREPARED BY:

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