

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

IN RE: CHADWICK D. BILLER

C2009-14

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers (hereinafter "Board") by Leonard J. Timms, P.E., its president, and its attorney, Nicole A. Cofer, Assistant Attorney General for the State of West Virginia for the purpose of agreeing to disciplinary action to be taken against Chadwick D. Biller (hereinafter "Respondent"). As reflected in this document, the parties have reached an agreement concerning the proper disposition of the above-referenced 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 in the State of West Virginia.
2. Respondent is a licensed professional engineer in the State of West Virginia holding license number 13620.
3. In June 2003, a plat survey of 212.12 acres was prepared for the Raleigh County Commission.

4. On or about September 11, 2003, the aforementioned plat was revised, signed by Respondent and sealed with Respondent's West Virginia Professional Engineer seal number 13620.
5. The revised plat showing a proposed division of the County Court of Raleigh County, West Virginia, property situated in the Shady Spring District was received by the West Virginia Board of Professional Surveyors (hereinafter "Surveyors") office on or about February 26, 2007.
6. On or about March 8, 2007, the Surveyors sent Respondent a letter ordering him to cease and desist from surveying in West Virginia until he becomes a licensed Professional Surveyor or the Surveyors recognize him as having an exemption under their law.
7. On or about March 14, 2007, Respondent replied to the Cease and Desist Order of the Surveyors admitting that he had mistakenly used his Professional Engineer seal to seal a survey plat; stating that he had corrected that plat and destroyed the original plat which was incorrectly sealed; and agreeing to cease and desist from this conduct in the future.
8. By letter dated January 16, 2009, the Surveyors officially closed the complaint against Respondent based upon Respondent's commitment

to comply with the provisions of the West Virginia Professional Surveyors Act. W.Va. Code § 30-13A.

9. On March 24, 2009, the West Virginia Board of Registration for Professional Engineers (hereinafter "Board") initiated Complaint number C2009-14 for misuse of seal as a result of his sealing a survey plat with his Professional Engineer seal.
10. Respondent fully admits that he improperly sealed a survey plat with his West Virginia Professional Engineer seal.
11. Respondent's prompt response in connection with this Complaint mitigates Respondent's culpability regarding the admitted violations of West Virginia Engineering Law; therefore, based on the foregoing, the Board, in its discretion, will not assess administrative costs according to W. Va. Code R § 7-1-14.4.
12. Respondent has waived his right to a hearing on this matter and other rights set forth in W. Va. Code § 30-13-17 *et seq.* and the procedural rules of the Board.

CONCLUSIONS OF LAW

1. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a license or impose a civil penalty upon any licensee who has "[s]igned or affixed the professional engineer's seal or permitted the

professional engineer's seal or signature to be affixed to any specifications, reports, drawings, plans, design information, construction documents or calculations or revisions which have not been prepared or completely checked by the professional engineer or under the professional engineer's direct supervision or control." W.Va. Code § 30-13-21(a)(10).

2. The Board is authorized to suspend or revoke or refuse to issue, restore or renew a licensee or impose a civil penalty upon any licensee who has "[f]ailed 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).
3. The West Virginia Code R. § 7-1-12.4(a) provides that "[r]egistrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering involved."
4. The West Virginia Code R. § 7-1-12.4(b) provides that "[r]egistrants shall not affix their signatures or seals to any plans or documents except in accordance with 30-13-1 *et seq.* and these rules."
5. The Board is authorized to assess civil penalties against any person who violates any provisions of this article or any rule promulgated by this 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(d)(4).

6. Misuse of a West Virginia Professional Engineer seal, to which Respondent has admitted herein, is an action that could subject Respondent to discipline by the Board, including a civil penalty up to \$5,000.00. W.Va. Code R § 7-1-15.1.
7. Each day of continued violation may constitute a separate offense. W.Va. Code R § 7-1-15.3.

CONSENT OF RESPONDENT

Chadwick D. Biller, individually, by affixing his signature hereon, agrees to the following:

1. Respondent has exercised his right to be represented by counsel and is aware of his option to pursue this matter through appropriate administrative and/or court procedures and Respondent intelligently and voluntarily waives his right to do so.
2. Respondent admits that he improperly applied his professional engineer's seal to a land survey plat which was prepared by others.
3. Respondent admits that he was not at any relevant time, and is not currently, a licensed land surveyor.
4. Respondent accepts the findings set forth above and consents to the entry of this Consent Order freely and voluntarily and without duress, restraint or compulsion.

5. Respondent 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.
6. This Consent Order is executed by Respondent for the purposes of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning the Respondent prior to or in conjunction with consideration of this Consent Order. Furthermore, should the Consent Order not be accepted by the Board, it is agreed that presentation to and by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.
7. Respondent acknowledges that this Consent Order and the underlying Complaint are public records and 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).

8. Respondent 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 No. C2009-14, the summary revocation of any license or certificate of authorization issued to the Respondent 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.
9. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.

ORDER

1. 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).
2. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) for the misuse of a West Virginia Professional Engineering seal.
3. The civil penalty imposed herein must be paid within thirty (30) days of the date Respondent receives notice of the Board's entering of this **CONSENT ORDER**, 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.

4. Respondent acknowledges that 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 NCEES.
5. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
6. 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 to enforce the terms of this Consent Order.
7. 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 the payment agreed to herein, Five Hundred Dollars (\$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.

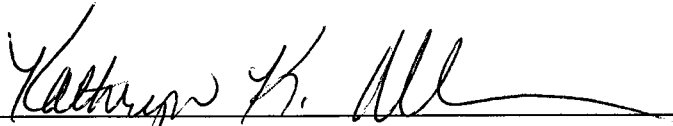
8. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalty agreed to herein.
9. This Consent Order relates solely to matters within the jurisdiction of the West Virginia Board of Registration for Professional Engineers and does not evidence 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:


CHADWICK D. BILLER
Respondent

10/5/09
DATE

REVIEWED BY:

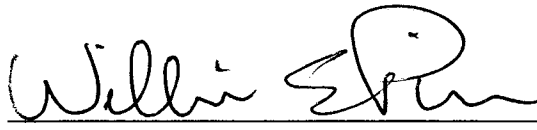

KATHRYN K. ALLEN
Counsel for Respondent

10/05/09
DATE

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

27TH day of OCTOBER, 2009.

WEST VIRGINIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL
ENGINEERS,

By: 
WILLIAM PIERSON, P.E.
BOARD VICE-PRESIDENT

10/26/09
DATE