

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

**IN RE:       JEFFERY L. ARNOLD and  
              J.L. ARNOLD ENGINEERING, INC.**

**C2012-04**

**CONSENT ORDER**

Comes now the West Virginia State Board of Registration for Professional Engineers by William Pierson, P.E., its Vice-President, (hereinafter “the Board”) for the purpose of agreeing to resolve a disputed Complaint seeking disciplinary action against Jeffery L. Arnold (hereinafter “Respondent Arnold”) and J.L. Arnold Engineering, Inc. (hereinafter “Respondent Firm”) (together, “Respondents”), by their respective counsel. Board President Edward L. Robinson recused himself from this matter. 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 matters set forth herein are within the jurisdiction of the Board, which is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia.
2. Respondent Arnold is a professional engineer currently licensed in the State of Florida and several other states, but has never been licensed in the State of West Virginia.
3. Respondent Firm, J.L. Arnold Engineering, Inc., is organized under the laws of the State of Florida, with its principal place of business in St. Petersburg.
4. Respondent Arnold, as the President of Respondent Firm, has the power and authority to make admissions and otherwise act on behalf of Respondent Firm.
5. A third-party Complaint was submitted on August 16, 2011, which was filed and served upon Respondents on August 22, 2011.

6. According to the allegations in the Complaint, and evidenced by supporting documents attached thereto, Respondent Arnold utilized his Florida professional engineering seal on drawings for a bridge repainting project in West Virginia.
7. The supporting documents contained five instances of Respondent Arnold's use of his Florida seal, each dated April 20, 2011.
8. Respondents never filed a response to the Complaint, and the matter was noticed for hearing on January 24, 2012, which notice was served upon Respondents on December 20, 2011 and received on December 23, 2011.
9. The Board was contacted by Counsel for Respondents on Friday, January 20, 2012, at which time it was agreed to continue the formal hearing and to sign the waivers necessary for the parties to conduct an informal conference on January 24, 2012.
10. Respondent Arnold admits that the documents containing five instances of his Florida seal on a West Virginia project are authentic.
11. Respondent Arnold states he self-reported performing similar work in Kentucky while his Kentucky license had lapsed, for which he was disciplined.
12. During the informal conference Respondent stated that this was the second project in West Virginia for which Respondent Arnold had sealed documents. Respondent stated that, on his recommendation, the documents on the first project had been subsequently presented to a West Virginia-licensed professional engineer for review and seal. Respondent Arnold made no inquiry to appropriate authorities in either Florida or West Virginia regarding whether his Florida seal could be used to seal documents for a project in West Virginia but, as with the first project, did inform the contractor that the drawings should be reviewed and sealed by a West Virginia professional engineer but did not follow-up to confirm that his work had been so reviewed.

13. Respondents admit that sealing the West Virginia documents with a Florida seal constituted the practice of engineering in West Virginia without a license or certificate of authorization, in violation of West Virginia engineering law as set forth in West Virginia Code § 30-13-1 et seq.
14. The Board has taken into account the following factors in reaching this settlement:  
whether the amount imposed will be a substantial economic deterrent to the violation; the circumstances leading to the violation; Respondent's history of previous violations; and Respondents' failure to cooperate with the Board in connection with this Complaint until just before the noticed hearing was to commence.
15. The Board also has taken into account Respondent Arnold's knowledge regarding West Virginia engineering law based on his prior work in West Virginia and his imputed knowledge of practicing engineering in states other than Florida, as evidenced by his several licensures and previously referenced disciplinary action.
16. The Board acknowledges the attachment to the third-party Complaint in which a representative of the West Virginia Department of Highways (WV DOH), albeit incorrectly, stated to the Complainant and the contractor that the WV DOH did not require the seal of a West Virginia PE on drawings. However, the Board notes that the emails attached to the Complaint were written August 1, 2011, and that the seal that is the subject of this Complaint is dated April 20, 2011. There is no evidence that Respondent saw the emails prior to service of this Complaint, made any inquiry to the WV DOH or otherwise received similar misinformation prior to sealing the drawings on a West Virginia project with his Florida seal.
17. The Board finds that Respondent Arnold's practice of engineering in West Virginia without the requisite credentials and his failure to timely respond to this Complaint were

in blatant and willful disregard of the authority of this Board and its duty to enforce West Virginia engineering law.

18. The Board incurred expenses in the notice of and preparation for the hearing which had been scheduled in this matter, which expenses were in excess of Five Hundred Dollars (\$500.00), including the time billed by their attorney but excluding the time expended by staff.

### **CONCLUSIONS OF LAW**

19. The Board is the state entity with the power and duty to regulate the practice of engineering in the State of West Virginia, and matters related to such practice are within the jurisdiction of the Board. W. Va. Code § 30-13-1 *et seq.*
20. It is unlawful for any person to practice or offer to practice engineering, as defined by West Virginia Code § 30-13-1 *et seq.*, in the State of West Virginia unless that person is duly registered under the provisions of West Virginia engineering law. W. Va. Code § 30-13-2.
21. 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.
22. Government agencies, authorities, officials and employees may not engage in the practice of engineering involving either public or private property unless the provisions of W. Va. Code § 30-13-1 *et seq.* are met. W. Va. Code § 30-13-20.
23. 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.” W. Va. Code § 30-13-21(b); see also W. Va. Code § 30-13-21(d)(4).

24. Practicing or offering to practice engineering, as defined by W. Va. § 30-13-1 et seq., without a license is an action that may subject a person to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00). W. Va. Code R. § 7-1-15.1.
25. Practicing or offering to practice engineering, as defined by W. Va. § 30-13-1 et seq., without a valid Certificate of Authorization is an action that may subject a firm to discipline by the Board, including a civil penalty up to Five Thousand Dollars (\$5,000.00). W. Va. Code R. § 7-1-15.1.
26. 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.

27. The Board, in its discretion, may assess administrative costs incurred in the performance of its enforcement or investigatory activities against any person or entity who violates any provision of West Virginia engineering law, which costs shall be paid to the West Virginia State Board of Registration for Professional Engineers by check or money order within a period of thirty (30) days from the date of the order entered by the Board. W. Va. Code R. § 7-1-14.4.

### **CONSENT OF RESPONDENTS**

Jeffery L. Arnold, individually and as the President of J.L. Arnold Engineering, Inc., by affixing his signature hereon, agrees to the following:

28. Respondents are represented by counsel and are aware of their right to pursue this matter through appropriate administrative and/or court procedures, including their right to a formal hearing before the Board, and Respondents intelligently and voluntarily waive these rights provided the Board accepts the terms and conditions set forth in this Consent Order.
29. Respondent Arnold admits that he did not have a license to practice engineering in the State of West Virginia at the time he sealed the documents which are the subject of this Complaint, in violation of West Virginia engineering law.
30. Respondent Firm admits that it did not have a Certificate of Authority to provide engineering services in the State of West Virginia at the time Respondent Arnold sealed the documents which are the subject of this Complaint, in violation of West Virginia engineering law.
31. 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.
32. Respondents acknowledge 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 C2012-04. This paragraph is binding on Respondents even in the event that the Board does not approve this Consent Order.
33. Respondents acknowledge 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, Respondents authorize the Board to review and examine all investigative file

materials concerning Respondents' activities in West Virginia in consideration of this Consent Order.

34. Should the Board not approve this Consent Order, Respondents waive any objections to the Board or any of its members participating in the adjudication of this matter. This paragraph is binding on the Respondents even if the Board does not approve this Consent Order.
35. Respondents acknowledge that the Board may reject this proposal, notice and complete the hearing, and, upon adjudication, impose such sanctions of a disciplinary nature as it deems appropriate.
36. 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.
37. Respondents understand that the Complaint, this Consent Order and any other documents which are deemed public records must be made available upon legal request in accordance with the state's Freedom of Information Act.
38. Respondents agree 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).
39. Respondents acknowledge that non-compliance with this Consent Order may result in the rescission of this agreement, the reinstatement of the Complaint, the summary revocation of any license or certification which may be issued to Respondents by the Board, and the

addition of any other charges which may arise or ensue from Respondents' non-compliance with this Consent Order.

40. Respondents acknowledge that proof of any material 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 certification issued to Respondents by the Board, 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 C2012-04 pursuant to West Virginia Code § 30-13-22(b).
2. The Board **ORDERS** Respondent Arnold pay a civil penalty in the amount of Seven Hundred Fifty Dollars (\$750.00) 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** Respondents to pay administrative costs of Five Hundred Dollars (\$500.00).
5. Respondents are prohibited from practicing or offering to practice engineering in the State of West Virginia until such time as Respondent Arnold is licensed to practice in West Virginia and Respondent Firm has been issued a Certificate of Authorization.



6. The civil penalties imposed herein totaling One Thousand Dollars (\$1,000.00) must be paid within thirty (30) days of the date of entry set forth below, 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.
7. The administrative costs assessed herein totaling Five Hundred Dollars (\$500.00) must be paid within thirty (30) days of the date of entry set forth below, such amount to be made payable to the W. Va. P.E. Board for deposit into the Board account for costs incurred in connection with the action.
8. 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).
9. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board.
10. If the civil penalties or administrative costs imposed or assessed herein are not timely paid, this Consent Order may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondents upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein (\$1,500.00), 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.
11. This matter shall be closed upon execution of this Consent Order by both parties and the full payment of the civil penalties and administrative costs agreed to herein.


12. This Consent Order relates solely to matters set forth in West Virginia engineering law 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:**

  
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**JEFFERY L. ARNOLD**, individually and on behalf of  
**J.I. ARNOLD ENGINEERING, INC.**

05/21/2012  
\_\_\_\_\_  
**DATE**

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

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

**ENTERED** into the records of the West Virginia State Board of Registration for Professional Engineers this 25<sup>TH</sup> day of MAY, 2012.

PREPARED BY:

DEBRA L. HAMILTON (WV Bar ID: 1553)  
DEPUTY ATTORNEY GENERAL  
STATE CAPITOL BLDG. 1, ROOM 26-E  
CHARLESTON, WEST VIRGINIA 25305

*for the West Virginia Board of Registration for Professional Engineers*

AGREED TO BY:

JOHN F. LOEHR, Attorney at Law  
DANIELS LAW FIRM PLLC  
SUITE 1270 BB&T SQUARE  
300 SUMMERS STREET  
P.O. BOX 1433  
CHARLESTON, WEST VIRGINIA 25325