

BEFORE THE WEST VIRGINIA STATE BOARD OF  
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE:            Charles J. Keyes III, Keyes Architects & Associates            C-2005-9

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 Charles J. Keyes III of Keyes Architects & Associates of Louisville, Kentucky. 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.     Charles J. Keyes is the President of Keyes Architects & Associates, an architectural firm in Louisville, Kentucky.
3.     Mr. Keyes is an architect licensed in the State of West Virginia among other states.
4.     A complaint against Mr. Keyes' firm, Keyes Architects & Associates, hereinafter at times referred to singly or collectively as "Respondent", was initiated and filed by the Board on September 19, 2005, and was served upon them by certified mail.
5.     The Board's investigator, during a routine plan room review, discovered that

Keyes Architects & Associates performed work on a theatre project in Holden, West Virginia. The Board's Investigator discussed the matter with the associate of Respondent who was serving as project manager and learned that Respondent did the work with the advice and assistance of engineers not licensed to practice in the State of West Virginia.

6. The resulting complaint against Respondent Keyes Architects & Associates was for the unlicensed practice of engineering, which is a charge typically brought against an individual, and the Board finds it would have been more appropriate to bring that charge against Mr. Keyes and that the appropriate charge against his firm would have been practicing engineering without the required certificate of authorization. However, due to the prompt informal settlement of this Complaint, the Board deems it unnecessary to amend same.
7. Mr. Keyes filed a response on October 7, 2005, wherein he made the following statements which the Board accepts as true:
  - (a) The theatre project is the only project currently underway in West Virginia.
  - (b) Mr. Keyes states he always attempts to verify a state's registration and code requirements before accepting a project and, in so doing, checked with the West Virginia Board of Architects before commencing work on the theatre project.
  - (c) The West Virginia Board of Architects informed Mr. Keyes he could use unlicensed consultants working under his review and direction, after which Mr. Keyes did utilize an experienced design team, some of whom are not registered engineers in West Virginia.

- (d) Respondent acknowledged he "probably should have also contacted the West Virginia Board of Registration for Professional Engineers" and that it was not his intent to practice engineering.
  - (e) Respondent apologized for the misunderstanding and stated he would "not let it happen on any future projects."
- 8. In a subsequent conversation with Mr. Keyes, the Board was told that this was the only work ever done by Respondent on a project in West Virginia and that none were in the works.
- 9. In that conversation, Mr. Keyes also agreed to provide the names and contact information for all engineering consultants used by Keyes on the project's tasks listed in his response, as well as copies of all the engineering seals as stamped on the drawings for the theatre project.
- 10. Respondent admits that engineering work was done by engineers unlicensed in the State of West Virginia under his architectural seal due to the understanding from the West Virginia Board of Architects that this was permissible.
- 11. The Board accepts that Respondent's conduct was a result of a good faith reliance on the information received from the West Virginia Board of Architects.
- 12. The Board finds the advice received by Respondent from the West Virginia Board of Architects was incorrect based on a clear and literal meaning of the regulatory language interpreted by the Architect's Board as more fully explained *infra* in "Conclusions of Law."



13. The Board further finds that the Q and A in the brochure "The Professional Use of Seals" jointly prepared by this Board and the West Virginia Board of Architects states that, just as engineers should not seal drawings identified as architectural, "architects generally should not seal electrical, mechanical, plumbing, civil or structural engineering drawings." (Note that architects are allowed to have "incidental" engineering and engineers similarly are allowed "incidental" architecture.)
14. The Board finds that Respondent promptly cooperated with it in addressing the issues raised in the Complaint, which cooperation has positively influenced the actions of the Board with regard to this Complaint.
15. Respondent has waived the right to a hearing on this matter and waives other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board.
16. The Board incurred only minimal expenses with regard to this Complaint and therefore deems the imposition of costs herein unnecessary.
17. Respondent agrees to accept an informal settlement of Complaint 2005-9.

#### **CONCLUSIONS OF LAW**

18. 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.
19. The West Virginia Board of Architects has promulgated rules to further the statutory provisions governing the practice of architecture in this State set forth in W. Va. Code §30-12-1 *et seq.* 2 C.S.R. 9.5.2 of the Architect Board's rules states that a registered architect cannot seal drawings or other work not prepared under his or her direct supervision except when "portions of the

work are prepared under the direct supervision of persons consulting with or employed by the architect *and who are registered under this or any other professional registration law of this State* ... if the architect has reviewed them and has coordinated their preparation.” (Emphasis added.)

20. The requirement that the person consulting with or employed by the architect be registered under the laws of the State of West Virginia means that engineering work must be done by a registered professional engineer.
21. Even if the law regulating the practice of architecture were not clear that an architect cannot seal engineering drawings prepared by an unlicensed engineer, engineering law in this State clearly requires the use of a seal and signature: “Whenever presented to a client or any public or governmental agency, the seal, signature and date shall be placed on all specifications, reports, drawings, plans, design information and calculations in accordance with rules promulgated by the Board.” W. Va. Code §30-13-16(c).
22. Engineering drawings done or for projects located in West Virginia must be signed and sealed by a registered professional engineer.
23. The Board, in its discretion, may take disciplinary action against any person who practices engineering without a license or any firm practices without a certificate of authorization, which authority includes the authority to reprimand. W. Va. Code §30-13-21(a).

### **CONSENT OF CHARLES J. KEYES III**

Charles J. Keyes III, individually and on behalf of Keyes Architects & Associates, by affixing his signature hereon, agrees to the following:

24. Respondent is aware of the right to be represented by counsel and further is aware of the option to pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.
25. Respondent 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.
26. Respondent consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
27. Respondent consents to stand by the interpretations set forth in this Consent Agreement with regard to any future discussions between this Board and the West Virginia Board of Architects concerning an architect's seal on engineering work.
28. 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
29. Mr. Keyes acknowledges that proof of any misstatement or misrepresentation made by him in his response or other document or statement 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

32. 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).
33. The Board **ORDERS** Respondent to be reprimanded for relying solely on the representations of the West Virginia Board of Architects.
34. The Board **ORDERS** Respondent to cease and desist from sealing any engineering work done for projects located in West Virginia which is not performed by a professional engineer licensed in the State of West Virginia and advises Respondent that such engineering work should still be signed and sealed by the registered professional engineer.
35. The Board **ORDERS** Respondent to cooperate in any reasonable manner regarding future discussions between this Board and the West Virginia Board of Architects concerning an architect's seal on engineering work.
36. The Board **ORDERS** this matter closed upon receipt of this signed agreement and the information and drawings referenced herein.
37. Respondent acknowledges the Complaint, response and this Consent Agreement are public records 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, including the non-public enforcement exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).
38. 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: 1/6/06

  
CHARLES J. KEYES III, individually and as President of  
KEYES ARCHITECTS & ASSOCIATES

Date: 12-28-05

**RECEIVED**

JAN 5 - 2006

WV REGISTRATION BOARD