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APR 21 2008

WV PE BOARD

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

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APR 9 2008

WV PE BOARD

IN RE: **UNIVERSAL FOREST PRODUCTS
EASTERN DIVISION, INC.**

C2008-8

CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, P.E., its president, and its attorney, Debra L. Hamilton, Deputy Attorney General for the State of West Virginia (hereinafter the "Board") and Universal Forest Products, Eastern Division, Inc. (hereinafter at times "Respondent"), and its legal counsel for the purpose of agreeing to a resolution of Complaint C2008-8 against Respondent. 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. C2008-8 was initiated as a third-party complaint, filed on December 20, 2007, and, upon receipt, reviewed by the Board.
3. The third-party complaint was a service-related issue wherein complainant asked the Board to "review reason of engineer failing to be present for review of structural issues with their product."
4. The complaint arose in connection with construction of a dormitory facility for use by students attending Marshall University which is contractually complex and for which Respondent provided wood trusses to a vendor which had a sub-contract with the

general contractor.

5. Upon receipt, the Board made a preliminary investigation, determined that Respondent had sealed drawings in connection with the dormitory construction and further determined that Respondent has never held a Certificate of Authorization (COA) in West Virginia, and prior to service of the Complaint added a count of practicing engineering without the required COA.
6. C2008-8 was served by certified mail on January 2, 2008, and received by Respondent on January 9, 2008.
7. Respondent is a Michigan corporation, with its principal offices in Grand Rapids, Michigan.
8. Respondent is represented by the office of its general counsel.
9. Matthew J. Missad is the Secretary for Respondent and has the power and authority to make admissions and otherwise act on behalf of Respondent.
10. In lieu of filing a formal response, Respondent provided information which was reviewed by the Board, and the Board conducted additional, independent investigation.
11. Without setting forth the myriad of facts relating to the various contracts and subcontracts involved in the dormitory construction, the Board, in its discretion, declines to exercise jurisdiction or take disciplinary action against Respondent with regard to the service count of the Complaint, regarding it as a private matter relating to the contractual rights and responsibilities of the various entities.
12. The Board finds and Respondent admits that one of its professional engineers who is licensed in West Virginia performed engineering services in West Virginia and sealed repair drawings without Respondent having the COA required to practice engineering in West Virginia.

13. Customizing engineered products for a purchaser located in West Virginia and / or sealing drawings on structures located in West Virginia both constitute the practice of engineering and therefore require a COA.
14. Prior to Board discussion of this matter, Respondent agreed to and did apply for and receive the required COA, which was issued on March 18, 2008 [C03264].
15. Respondent has waived its right to a hearing on this matter and other rights set forth in W. Va. Code §30-13-1 *et seq.* and the procedural rules of the Board.
16. The Board has incurred expenses in connection with this investigation but in its discretion declines to impose administrative costs.

CONCLUSIONS OF LAW

17. 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. West Virginia Code §30-13-17.
18. 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.” West Virginia Code §30-13-21(b); *see also* W. Va. Code §30-13-21(d)(4).
19. Practicing or offering to practice engineering without a valid COA is an action that would subject a firm to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1.15.1.
20. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF UNIVERSAL FOREST PRODUCTS EASTERN DIVISION, INC.

Matthew J. Missad, by affixing his signature hereon, agrees to the following on behalf of Respondent Universal Forest Products Eastern Division, Inc.:

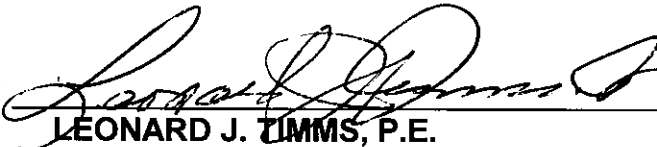
21. Respondent is represented by the office of its general counsel and is aware of its option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently and voluntarily waives its right to do so.
22. Respondent intelligently and voluntarily waives its right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
23. Respondent agrees to pay a civil penalty in the amount of two hundred fifty dollars (\$250.00) as part of the agreed disposition of this matter.
24. Respondent accepts the findings set forth above and agrees to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
25. 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.
26. 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 this Complaint, the summary revocation of the certificate of authorization issued to 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.
27. Respondent acknowledges the Complaint, this Consent Order and any written submissions of Respondent to the Board are public records.

28. Respondent agrees that the sum and substance of Complaint C2008-8 and this Consent Order 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 the National Council of Examiners for Engineering and Surveying (NCEES).

ORDER

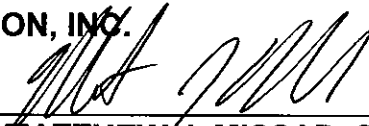
29. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).
30. The Board **ORDERS** that the third-party allegations related to Respondent's service be and are hereby dismissed.
31. The Board **ORDERS** Respondent to pay a civil penalty in the total amount of Two Hundred and Fifty Dollars for practicing engineering without a COA.
32. The civil penalty imposed herein must be paid within thirty (30) days of the date of the signature of the Board President, 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.
33. The Board **ORDERS** that this Consent Order be published on the Board website, summarized in the next annual newsletter of the Board, and reported to the enforcement exchange database administered by the National Council of Examiners for Engineering and Surveying (NCEES).
34. Any violation of the terms of this Consent Order shall be immediate cause for summary revocation of any West Virginia COA obtained by Respondent 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: 4/7/08

**UNIVERSAL FOREST PRODUCTS EASTERN
DIVISION, INC.**

By: 
MATTHEW J. MISSAD, Secretary

Date: 4/15/08