

FEB 14 2005

WV REGISTRATION BOARD

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: Dennis C. Gray
Gerald A. Herron, P.C. d/b/a Herron Engineering

CASE NO. 2005-2
2005-3

PROPOSED CONSENT ORDER

Comes now the West Virginia State Board of Registration for Professional Engineers by Leonard J. Timms, Jr., 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 Dennis C. Gray and his firm, Herron Engineering, Inc., by the Board pursuant to West Virginia Code § 30-13-21. 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. Dennis C. Gray, (hereinafter at times "Mr. Gray" or "Respondent") is an individual who last held a West Virginia professional engineering license issued by this Board in 1996, after which time Mr. Gray failed to renew his license.
3. Mr. Gray acquired Gerald A. Herron, P.C., an engineering firm incorporated in Pennsylvania and d/b/a Herron Engineering, on or around April 1, 2004. Mr. Gray is and has been the President of the firm since his acquisition.

4. Mr. Gray never applied for nor received a certification of authorization for Herron Engineering as required by West Virginia Code § 30-13-17.

5. Mr. Gray, after the expiration of his license to practice engineering in West Virginia, and Herron Engineering, without a certification of authorization issued by the Board, continued to practice engineering or resumed the practice of engineering in the State of West Virginia.

6. Specifically, Mr. Gray, through his firm, provided lead engineering services for the design of a new hotel and convention center in Bridgeport, West Virginia.

7. Mr. Gray was informed of the sum and substance of these complaints during the pre-filing investigation of this matter and applied for reinstatement of his license and for issuance of a certificate of authorization to his firm, both of which have been held in abeyance pending the outcome of this complaint.

8. A formal Complaint was issued by the Board on January 31, 2005, and served upon Respondent by certified mail.

9. Prior to the filing of the formal Complaint, Respondent contacted the Board's attorney, and this communication resulted in a proposed consent agreement being sent to Respondent simultaneous with the formal Complaint.

10. Mr. Gray has stipulated and represents to this Board that the only practice of engineering for remuneration conducted after the expiration of his license to date was in connection with the Bridgeport hotel and convention center. Mr. Gray makes this representation with the understanding that a misrepresentation to the Board, whether done negligently or intentionally, is in violation, *inter alia*, of W. Va. Code § 30-13-(a) (1) and (12) and will be cause for further disciplinary action by this Board.

11. Mr. Gray admits he practiced engineering in West Virginia after his license was expired in violation of W. Va. Code § 30-13-2.

12. Mr. Gray admits his firm practiced engineering in West Virginia without a certification of authorization in violation of W. Va. Code § 30-13-17.

13. Mr. Gray agrees to waive his right to a hearing on this matter and to waive other rights set forth in W. Va. Code § 30-13-1 *et seq.* and the procedural rules of the Board, including his right to counsel.

14. Respondent agrees to accept an informal settlement of Complaints 2005-2 and 2005-3.

15. Mr. Gray's cooperation and prompt attention to rectifying the situation have been taken into account by the Board and have mitigated the amount of administrative costs incurred by the Board.

CONCLUSIONS OF LAW

16. 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.

17. Among its other powers, the Board has the power to levy civil penalties and assess costs. W. Va. Code § 30-13-21(d)(4).

18. Practicing engineering without a license, to which Respondent has admitted, is an action that would subject a person to discipline by the Board.

19. Practicing engineering without a certificate of authorization (COA), to which Respondent has admitted, is an action that would subject a person to discipline by the Board.

20. Any misrepresentation to the Board, whether made intentionally or negligently, is an action that would subject a person to discipline by the Board.

CONSENT OF DENNIS C. GRAY

Dennis C. Gray, by affixing his signature hereon, agrees to the following:

21. Mr. Gray acknowledges that he is fully aware of his option to retain and be represented by counsel and/or pursue this matter through appropriate administrative and/or court procedures, but intelligently, knowingly and voluntarily waives his right to do so.

22. Mr. Gray 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.

23. Mr. Gray consents to the entry of the following Order freely and voluntarily and not under duress, restraint or compulsion.

24. Mr. Gray acknowledges that the Board may reject this proposal and may seek other sanctions of a disciplinary nature, decide to proceed to hearing, or take such other action as it deems appropriate.

ORDER

25. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Agreement shall serve as an informal settlement pursuant to West Virginia Code § 30-13-22(b).

26. The Board **ORDERS** Dennis C. Gray to pay a civil penalty in the amount of One Thousand Dollars (\$1,000.00) for practicing engineering without license.

27. The Board **ORDERS** Herron Engineering to pay a civil penalty in the amount of One Thousand Dollars (\$1,000.00) for practicing engineering without a certificate of authorization.

28. The Board **ORDERS** Dennis C. Gray or his firm to pay administrative costs in the amount of One Hundred Dollars (\$100.00).

29. The payment of the civil penalties (\$2,000.00) and costs (\$100.00) shall be received by the Board no later than thirty (30) days after Mr. Gray signs this Agreement. If the full amount is made payable to the Board, \$2,000.00 shall be transferred to the general fund of the State of West Virginia by the Board upon receipt. Respondent may also remit two checks to the Board, with the administrative costs made payable to the Board and the civil penalties made payable to the State of West Virginia.

30. The Board shall reinstate Mr. Gray's license and shall issue a certificate of authorization to his firm upon receipt of the civil penalties and costs agreed to herein and upon further receipt of all materials required for reinstatement and issuance of a license and COA pursuant to Board rule.

31. Mr. Gray acknowledges that this Consent Agreement is a public record 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.

32. 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, Jr., P.E.
Board President

Date: February 15, 2005


Dennis C. Gray, individually and as President of Gerald
A. Herron, P.C., d/b/a Herron Engineering

Date: February 9, 2005