

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

RECEIVED

APR 23, 2007

WV REGISTRATION BOARD

IN RE: ENERGY & ENVIRONMENTAL MANAGEMENT, INC.

C2007-05

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") for the purpose of agreeing to disciplinary action to be taken against Energy & Environmental Management, Inc. [hereinafter at times referred to as 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. Larry Simmons is the President of Energy & Environmental Management, Inc. and has the power and authority to make admissions and otherwise act on behalf of Respondent.
3. Energy & Environmental Management, Inc. is a corporation organized under the laws of the State of Pennsylvania with its principal office in Harrison City, PA.
4. Energy & Environmental Management, Inc. provides environmental consulting services in the Mid-West, Mid-Atlantic and Southeastern United States.
5. Based on information made available to the Board, discussions were had with Respondent, who agreed to immediately apply for a Certification of Authorization.
6. Despite Respondent's representations regarding the COA, Respondent failed to apply for same, and this board-initiated complaint was served by certified mail on

January 8, 2007.

7. Although initially served as C2006-25, the complaint should have been numbered C2007-05 and is so modified through this Consent Order.
8. Respondent made no response to this Complaint until an application for a West Virginia PE license and COA was received by the Board on March 23, 2007.
9. Respondent admits it provides engineering services in the State of West Virginia, primarily in the area of air quality modeling and compliance.
10. This Consent Order was negotiated as a result of communications between the Board and Respondent.
11. The Board, in its discretion, will not initiate a complaint against any individual engineer(s) for practicing engineering in West Virginia without a license on Respondent's behalf although the Board finds it was within its power to bring such a complaint.
12. The Board, in its discretion, will not modify this complaint to add a count for failing to provide information requested by the Board within thirty (30) days although the Board finds Respondent was untimely in its response.
13. 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.
14. The Board incurred only minimal expenses with regard to this Complaint and therefore finds it appropriate to enter into this Consent Order without the imposition of costs.

CONCLUSIONS OF LAW

15. 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.

16. The Board is authorized to take disciplinary action against any person who fails within thirty days to provide information to the Board as a result of a complaint. West Virginia Code §30-13-21(a)(6).
17. 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).
18. Practicing or offering to practice engineering without a valid COA, to which Respondent has admitted herein, 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.
19. Each day of continued violation may constitute a separate offense. 7 CSR 1.15.3.

CONSENT OF LARRY SIMMONS

Larry Simmons, President of Energy & Environmental Management, Inc., by affixing his signature hereon, agrees to the following on behalf of Respondent company:

20. Respondent is aware of its right to be represented by its in-house counsel and intelligently and voluntarily waives such right.
21. 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.
22. Respondent has no objection to the re-numbering of the Complaint and agrees to accept an informal settlement of Complaint 2007-05 against Energy & Environmental Management, Inc.
23. Respondent admits it provided engineering services in the State of West Virginia in

the form of environmental consulting services without a valid certificate of authorization (COA).

24. Respondent accepts the findings set forth above and consents 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 the 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.

ORDER

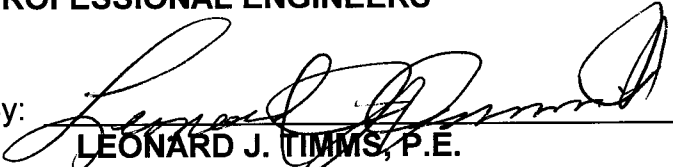
27. On the basis of the foregoing the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code §30-13-22(b).
28. The Board **ORDERS** Respondent to pay a civil penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for practicing engineering without a certificate of authorization.
29. 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.
30. Respondent acknowledges 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 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).


31. Respondent will not offer to practice engineering in the State of West Virginia or enter into any new agreements or arrangements for engineering work unless and until it holds a valid Certificate of Authorization issued by this Board, which COA shall not issue until Respondent has qualified for same and paid the civil penalty imposed herein.
32. Any violation of the terms of this Consent Order shall be immediate cause for further disciplinary action by the Board, including the summary revocation of any COA which may be issued to Energy & Environmental Management, Inc. after compliance with this Consent Order.
33. 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.
34. If the civil penalty imposed herein is 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 payment agreed to herein (\$250.00), 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.

35. 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.
36. 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.

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

By: 
LEONARD J. TIMMS, P.E.
Board President

Date: _____


ENERGY & ENVIRONMENTAL MANAGEMENT,
INC. by
LARRY SIMMONS, its President

Date: 20 APRIL 2007