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P.O. Box 41225
Raleigh, NC 27629-1225
Telephone 919-850-9669
Facsimile 919-872-1598
www.ncblg.org
Email:ncblg@bellsouth.net

North Carolina Board for Licensing of Geologists

BOARD STATEMENT:

If a corporation not registered with the Board to provide geological services and a licensed geologist provide work on a site, the geologist must contract directly with the client (not through the unregistered corporation). Any reports prepared by the licensed geologist must be on the geologist's own letterhead to the person or entity contracting with the geologist. Only a corporate entity registered with the Board to provide geological services may employ a licensed geologist to prepare, sign and seal geological reports on its behalf for a client.

The North Carolina Board for Licensing of Geologists ("Board") has encountered several instances in which a licensed geologist has provided services to or subcontracted with an unlicensed individual or corporate entity not registered with the Board ("unregistered corporation") to provide geological services for a third party/end user.

The Board reminds all licensees that only a corporate entity registered with the Board to provide geological services ("registered corporation") may employ or subcontract with a licensed geologist to prepare, sign and seal geological reports on its behalf. N.C.G.S. § 55B-8 ("A professional service corporation may render professional services only through its officers, employees and agents who are duly licensed to render such professional services.") A current list of registered corporations is available on the Board website (www.ncblg.org) under the tab labeled "Licensees." N.C.G.S. §§ 55B-6 and -14 require that in order for a professional corporation to be registered by the NCBLG, at least one corporate officer must be a stockholder of the corporation and duly licensed by the Board.

The public practice of geology is defined as "the performance for others of geological service or work in the nature of work or consultation, investigation, surveys, evaluations, planning, mapping and inspection of geological work, in which the performance is related to the public welfare of safeguarding of life, health, property and the environment, except as specifically exempted by this chapter." N.C.G.S. § 89E-3(8)

Under the Board's Rules of Professional Conduct, a "geologist shall not affix his signature and seal to any . . . plan or document not prepared under his direct supervisory control,

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except that the geologist may affix his seal and signature to drawings and documents depicting the work of two or more professionals provided he designates by note under his seal the specific subject matter for which he is responsible.” 21 NCAC 21 .1101

In accordance with the Board’s Rules of Conduct of Advertising, a geologist “shall not make exaggerated, misleading, deceptive or false statements or claims about his professional qualifications, experience or performance in his brochures, correspondence, listing, or other public communications. . . . [including] the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; [or] statements intended or likely to create an unjustified expectation[.]” 21 NCAC 21 .1102 From this, the Board concludes that reports prepared by a licensed geologist who has a subcontract to perform work must be prepared and presented on the subcontracting geologist’s letterhead, and not the letterhead of the contracting registered corporation, so as not to mislead the public on the question of whether the subcontracted licensed geologist is an employee of the registered corporation. In addition, a registered corporation cannot promote the work performed by a subcontracted geologist in its advertising without making sure the public is not misled as to the relationship between the contracting registered corporation and the subcontracting licensee.

In addition, a licensed geologist may not subcontract to provide geological services for, or on behalf of, an unlicensed individual or unregistered corporation when the unlicensed individual or unregistered corporate entity is not the end user of the services. Any agreement to provide geological services must be executed directly between the licensed geologist or corporation registered by the Board and the end user. And, any reports must be prepared on the geologist’s own letterhead addressed to the person or entity contracting with the geologist in accordance with the North Carolina Geologists Licensing Act and the Board’s rules.

The Board offers the following example to explain how it interprets the existing rules and what is not allowed. This example is not intended to address any existing situation with a current licensee as any Board action would be based on the facts of an individual complaint.

Company A offers to remove residential underground home heating oil tanks for Mr. and Mrs. Smith. Company A is not registered with the Board to perform geological services and does not meet the registration requirements. During the work, contamination is detected. Company A is not qualified to perform the geological services required to delineate the extent of contamination or to prepare the report which must be submitted to the Underground Storage Tank (“UST”) Section of the NC Department of Environmental Quality (“DEQ”). Company A subcontracts with Geologist B, a licensed geologist, to prepare the necessary report. Geologist B does not contract directly with Mr. and Mrs. Smith and did not submit an accompanying bid with Company A’s proposal to the Smiths. After completing the report, Geologist B submits it to Company A, for ultimate submittal to DEQ’s UST Section; the report states that it was prepared by Geologist B “for Company A” or “on behalf of Company A.”

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Because Company A is not a registered corporate entity, Geologist B **has violated** the Geology Act and the Board's rules because Geologist B has supported an unregistered corporation in the practice of geology. The North Carolina Professional Corporation Act prohibits corporations from engaging or offering to perform the covered professions without first being properly registered with the appropriate licensing board. The Geology Act also prohibits an unlicensed individual or unregistered corporation from publicly offering or performing geological services.

As a licensed geologist, if Geologist B prepared and submitted the report "for Company A," and did not contract directly with Mr. and Mrs. Smith the licensee is violating the Rules of Professional Conduct for Geologists. To avoid violating the Rules of Professional Conduct for Geologists, Geologist B should have submitted a proposal for the geology work to the Smiths using the licensee's own letterhead. This proposal could be submitted along with Company A's bid to perform other services as a joint bid to the Smiths or separately if the need for geological services becomes apparent after the work had begun. Geologist B is required to have a separate contract (or "prime contract") for services with the Smiths, not Company A. In addition, the report prepared by Geologist B should be prepared for submission "to Mr. and Mrs. Smith." If these requirements are met, Geologist B's final report can be submitted directly to the Smiths, or jointly to the Smiths along with Company A's report.

For additional information or questions, please review The Geology Act and the Board's rules on the Board's website (www.ncblg.org) or contact the Board's Executive Director at (919) 850-9669 or ncblg@bellsouth.net.