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**MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE ARCHITECTURE,
GEOSCIENCE AND INTERIOR DESIGN**

In the matter of Monte C. Clark, PE
License Number 43299

**STIPULATION
AND ORDER**

The Board is authorized pursuant to Minnesota Statutes §§ 214.10 and 326.111 to license and regulate the practice of architects, professional engineers, land surveyors, landscape architects, geoscientists, and certified interior designers, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Monte C. Clark ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Stipulation and Order.

STIPULATION

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. Respondent has held a license to practice professional engineering from the Board since May 19, 2004. Respondent is subject to the jurisdiction of the Board with respect to the matters referred in this Stipulation.

2. Facts. This Stipulation is based upon the following facts:

a) Respondent submitted an application for licensure as a professional engineer by comity dated October 28, 2003, which was received by the Board on November 4, 2003. A true and correct copy, with the social security number redacted, of the Application for Licensure by Comity dated October 28, 2003 is on file at the Board

office.

b) Section 15 of Application for Licensure by Comity asks, "Have you ever had a license disciplined, denied, surrendered, suspended or revoked?" Respondent answered by the question by checking "No."

c) In Section 22 of the Application for Licensure by Comity Respondent deposed and affirmed that all the statements in the Application for Licensure by Comity dated October 28, 2003 are true.

d) Respondent submitted an NCEES Council Record, as part of his application for licensure by comity. In the Authorization for Transmittal of Council Record, Item G, Respondent was asked, "Has any disciplinary action been taken against you?" Respondent answered the question by checking "No." A true and correct copy, with the social security number redacted, of the Application for Licensure by Comity dated October 28, 2003 is on file at the Board office.

e) In the NCEES Council Record, Section D, question 3, Respondent was asked, "Has any disciplinary action been taken against you?" Respondent answered the question by checking "No."

f) Respondent and the State of Alaska entered into a Memorandum of Agreement and Order on May 9, 1997. A true and correct copy of the Memorandum of Agreement and Order is attached as Exhibit A.

g) Respondent was licensed to practice professional engineering in the State of Minnesota on May 19, 2004.

3. Resolution of Complaint. The Committee's position is that the facts specified above constitute a violation of Minnesota Rules, ch. 1805.0200, subpart 2

(2003), and that those facts are sufficient grounds for the remedy specified below. Respondent denies that he violated any provisions of Minnesota law enforced by the Board, and his position is that he inadvertently failed to disclose a fact, which was not material, on the comity application he submitted to the Board. However, the Committee and Respondent wish to resolve the complaint against Respondent by mutually agreeing to the remedy specified in paragraph 4 below.

4. Enforcement Action. Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

a) Ethics Course. Within one year of the date of the attached Board Order, Respondent shall successfully complete, and submit acceptable documentation thereof to the Board, a course in professional ethics approved in advance by the Complaint Committee. Completion of this ethics course shall be in addition to the continuing education requirement set out in Minn. Stat. § 326.107 (2002).

b) Civil Penalty. Respondent shall submit a civil penalty of one thousand dollars ($1,000.00) by cashier's check or money order to the Board within sixty (60) days of the Board's approval of this Stipulation and Order.

5. Waiver of Respondent's Rights. For the purpose of this Stipulation, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of the remedy specified in paragraph 4 above in a contested case proceeding pursuant to Minnesota Statutes Chapter 14. Respondent agrees that upon the application of the committee without notice to or an

appearance by Respondent, the Board may issue an Order containing the enforcement action specified in paragraph 4 herein. Respondent waives the right to any judicial review of the Order by appeal, writ of certiorari, or otherwise.

6. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this Stipulation and Order, or a lesser remedy than specified herein, this Stipulation and Order shall be null and void and shall not be used for any purpose by either party hereto. If this Stipulation is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14, Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Stipulation and the record.

7. Collection. In accordance with Minn. Stat. § 16D, subd. 2 (2002), in the event this order becomes final and Respondent does not comply with the condition in paragraph 4(b) above, Respondent agrees that the Board may file and enforce the unpaid portion of the civil penalty as a judgment without further notice or additional proceedings.

8. Record. The Stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Stipulation.

9. Data Classification. Under the Minnesota Data Practices Act, this Stipulation and Order is classified as public data upon its issuance by the Board. Minnesota Statutes § 13.41, subd. 5 (2002). All documents in the record shall maintain

the data classification to which they are entitled under the Minnesota Data Practices Act, Minnesota Statutes Chapter 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Order will appear in the Board's newsletter.

10. Entire Agreement. Respondent has read, understood, and agreed to this Stipulation and is freely and voluntarily signing it. The Stipulation contains the entire agreement between the parties hereto relating to the allegations referenced herein. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

11. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent was represented by Mr. Mathew Meyer.

12. Service. If approved by the Board, a copy of this Stipulation and Order shall be served personally or by first class mail on Respondent. The order shall be effective and deemed issued when it is signed by the Chair of the Board.

Monte C. Clark

Dated: JUNE 4, 2004

By: Sonia Maassel Jacobsen
Sonia Maassel Jacobsen, PE
Complaint Committee Chair

Dated: June 9, 2004

ORDER

Upon consideration of the foregoing Stipulation and based upon all the files, records, and proceedings herein, all terms of the Stipulation are approved and adopted

and hereby issued as an Order of this Board this the 18 day of June, 2004.

MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE
AND INTERIOR DESIGN

BY: _____
James O'Brien, FAIA
Board Chair