

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

In the matter of  
Mike Piekarski, Unlicensed

**SETTLEMENT AGREEMENT  
AND  
CEASE AND DESIST ORDER**

**Board File No.: 2004-0010**

TO: Mike Piekarski  
Advanced Consulting & Inspection  
10024 167<sup>th</sup> Court West  
Lakeville, MN 55044

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (Board) is authorized pursuant to Minnesota Statutes §§ 214.10 and 326.111 (2002) to review complaints concerning the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Mr. Mike Piekarski (Respondent). The Board's Complaint Committee (Committee) reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

**SETTLEMENT AGREEMENT**

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

1. Jurisdiction. Pursuant to Minnesota Statutes § 326.111, subd. 3 (2002), the

Board is authorized to issue an order requiring unlicensed individuals to cease and desist from holding themselves out as licensed architects in the State of Minnesota. Respondent is subject to jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement.

2. Facts. This Settlement Agreement is based upon the following facts:

a. Respondent is not currently and never has been licensed by the Board as an architect in the State of Minnesota.

b. Respondent prepared and signed the June 4, 2003 Residential Moisture Intrusion Inspection report for the single family home located at 2992 Fairway Drive in Chaska, Minnesota. Respondent signed the Residential Moisture Intrusion Inspection report as an "Engineer, Architect." A complete copy of the June 4, 2003 Residential Moisture Intrusion Inspection Report for the residence located at 2992 Fairway Drive in Chaska, Minnesota is on file at the Board office. A true and correct copy of the signature page is attached as Exhibit A.

c. Respondent prepared and signed the June 12, 2003 Residential Moisture Intrusion Inspection report for the single family home located at 2920 Fairway Drive in Chaska, Minnesota. Respondent signed the Residential Moisture Intrusion Inspection report as an "Engineer, Architect." A complete copy of the June 12, 2003 Residential Moisture Intrusion Inspection report for the residence located at 2920 Fairway Drive in Chaska, Minnesota is on file at the Board office. A true and correct copy of the signature page is attached as Exhibit B.

d. Respondent prepared and signed the June 4, 2003 Residential Moisture Intrusion Inspection report for the single family home located at 3032 Fairway

Drive in Chaska, Minnesota. Respondent signed the Residential Moisture Intrusion Inspection report as an "Engineer, Architect." A complete copy of the June 4, 2003 Residential Moisture Intrusion Inspection report for the residence located at 3032 Fairway Drive in Chaska, Minnesota is on file at the Board office. A true and correct copy of the signature page is attached as Exhibit C.

e. Respondent prepared and signed the June 4, 2003 Residential Moisture Intrusion Inspection report for the single family home located at 3036 Fairway Drive in Chaska, Minnesota. Respondent signed the Residential Moisture Intrusion Inspection report as an "Engineer, Architect." A complete copy of the June 4, 2003 Residential Moisture Intrusion Inspection report for the residence located at 3036 Fairway Drive in Chaska, Minnesota is on file at the Board office. A true and correct copy of the signature page is attached as Exhibit D.

f. Respondent prepared and signed the May 29, 2003 Residential Moisture Intrusion Inspection report for the single family home located at 3012 Fairway Drive in Chaska, Minnesota. Respondent signed the Residential Moisture Intrusion Inspection report as an "Engineer, Architect." A complete copy of the May 29, 2003 Residential Moisture Intrusion Inspection report for the residence located at 3012 Fairway Drive in Chaska, Minnesota is on file at the Board office. A true and correct copy of the signature page is attached as Exhibit E.

g. In a letter dated September 29, 2003, Respondent's attorney, Mr. Robert Bruno, addresses Respondent's identification of himself as an "Engineer, Architect." In addition he informs the Board that Respondent has taken corrective action and is now identifying himself as a "BSME, Mechanical Engineer; BA, Architecture" on reports. Mr.

Bruno states:

“ Since receiving your letter he has changed his designation on other reports to make it clearer that he is identifying his degrees and not his licensure: “BSME, Mechanical Engineer; BA, Architecture.”

A true and correct copy of the September 29, 2003 letter is attached as Exhibit F.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes §§ 326.02, Subd. 1 (2002) and are sufficient grounds for the action specified below.

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

a. Cease and Desist Order. Respondent shall cease and desist from holding himself out as an architect in Minnesota, and from further violations of Minnesota Statutes §§ 326.02 to 326.15 (2002) until such time as he becomes licensed as an architect in the state of Minnesota.

b. Civil Penalty. Respondent shall pay a civil penalty of five hundred dollars (\$500.00) to the Board, of which five hundred dollars (\$500.00) will be stayed on the condition that Respondent does not violate any Board Statutes or Rules for two (2) years beginning on the date that the Board Chair signs the attached Order.

5. Judicial Relief. If Respondent violates paragraph 4 above, a district court of this state may, upon application of the Committee, enter an order enjoining Respondent from such unauthorized practices, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

6. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, 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 discipline in a contested 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.

7. Collection. In accordance with Minnesota Statute § 16D.17, Subd. 2 (2002), in the event this order becomes final and Respondent does not comply with the conditions in paragraph 4 above, Respondent agrees that the Board may lift the stay on the unpaid portion of the civil penalty and that the Board may file and enforce the unpaid portion of the civil penalty as a judgment without further notice or additional proceedings.

8. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement or a lesser remedy than specified herein, this Settlement Agreement and Cease and Desist Order shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement 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 Settlement Agreement and the record.

9. Record. The Settlement Agreement, 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 Settlement Agreement.

10. Data Classification. Under the Minnesota Data Practices Act, this Settlement Agreement and Cease and Desist 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 Government 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.

11. Entire Agreement. Respondent has read, understood, and agreed to this Settlement Agreement and is freely and voluntarily signing it. The Settlement Agreement contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

12. Counsel. Respondent is represented by Mr. Robert Bruno, of Robert J. Bruno, Ltd.

13. Service. If approved by the Board, a copy of this Settlement Agreement and Cease and Desist 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.

RESPONDENT

Michael J. Piekarski  
Mike Piekarski

Dated: 6-29-04

COMPLAINT COMMITTEE

By Senia Maassel Jacobsen, PE  
Committee Chair

Doris Preisendorf Sullivan, LA,  
FASLA

Dated: 7/8/04

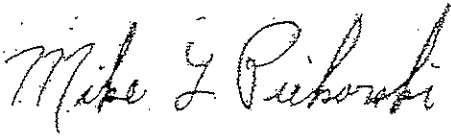
**ORDER**

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and adopted and hereby issued as an Order of this Board this 10 day of SEPT, 2004.

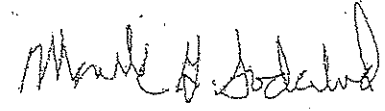
MINNESOTA BOARD OF  
ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE  
ARCHITECTURE, GEOSCIENCE AND  
INTERIOR DESIGN.

By: James O'Brien  
James O'Brien, FAIA, CID  
Chair

Respectfully Submitted,



Mike Piekarski  
Engineer, Architect



Mark G. Soderlund  
PE, Principal Engineer

Advanced Consulting & Inspection

**EXHIBIT A**



Respectfully Submitted,

*Mike J. Pickarski*

Mike Pickarski  
Engineer, Architect

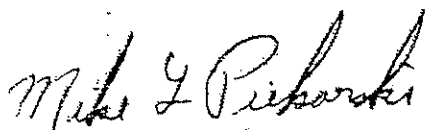
*Mark G. Soderlund*

Mark G. Soderlund  
PE, Principal Engineer

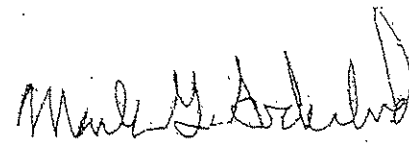
Advanced Consulting & Inspection

**EXHIBIT B**

Respectfully Submitted,



Mike Piekarski  
Engineer, Architect



Mark G. Soderlund  
PE, Principal Engineer

Advanced Consulting & Inspection

**EXHIBIT C**

Respectfully Submitted,

*Mike G. Piekarski*

Mike Piekarski  
Engineer, Architect

*Mark G. Soderlund*

Mark G. Soderlund  
PE, Principal Engineer

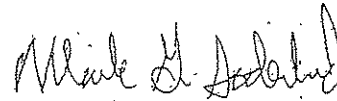
Advanced Consulting & Inspection

**EXHIBIT D**

Respectfully Submitted,



Mike Piekarski  
Engineer, Architect



Mark G. Soderlund  
PE, Principal Engineer

Advanced Consulting & Inspection

Advanced Consulting & Inspection

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**EXHIBIT E**

RECEIVED

SEP 30 2003

ROBERT J. BRUNO, LTD.

Robert J. Bruno  
Attorney at Law  
107 Professional Plaza  
1601 East Highway 13  
Burnsville, MN 55337

Tel: (952)890-9171  
Fax: (952)890-9172

September 29, 2003

Mr. Benjamin Barker  
Minnesota Board of Architecture, Engineering, et al.  
85 East 7<sup>th</sup> Place, Suite 160  
St. Paul, MN 55101

Re: Mr. Mike Piekarski, File No. 2004-0010

Dear Mr. Barker:

I have been engaged by the above referenced person to respond to your letter of September 17, 2003. Please direct all further correspondence about this matter to me.

Your letter concerns a certain inspection report for property located at 2920 Fairway Drive, Chaska, Minnesota, in which you allege that my client signed as "Engineer, Architect." You then set forth three statutes verbatim: Minn. Stat. Secs. 326.02, Subd. 1, 326.02, Subd. 2, and 326.02, Subd. 3. After setting forth those statutes you request a detailed response. Your listing of these statutes implies, without stating, that you believe they may serve as the basis for some further action on your part. Your implication is without any basis.

Minn. Stat. Sec. 326.02, Subd. 5 plainly provides that Sections 326.02 through 326.15 do not apply to engineering work or architectural services for buildings identified in Section 326.03. Furthermore, and directly on point is Minn. Stat. Sec. 326.03, Subd. 2, which provides:

Subd. 2. Exceptions. Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

(a) dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;

The building for which my client performed services is a "dwelling for single families" as the term is used in Subd. 2. Therefore, there is plainly no jurisdiction in the Board to enforce the provisions of Section 326.02 against my client when his services were rendered in consultation,

EXHIBIT 1

investigation, or evaluation of a single family dwelling. Your remedy is with the legislature if you seek to apply your cited statutes against consultants for single family homes.

You should also be aware that the complainant, Mr. Hardy, is a friend of the builder, Jagodzinski Development. Jagodzinski Development is a builder of many homes in the area of the instant property, and my client is aware of at least 6 other homes on the same street that have suffered moisture damage attributable to Jagodzinski. One of the cases has been settled in favor of the homeowner and is currently undergoing a complete stripping of the stucco finish and repair of extensive damage. It is obvious that Jagodzinski is attempting to use your office to discredit my client's work and to discourage further consumer complaints by homeowners for his work.

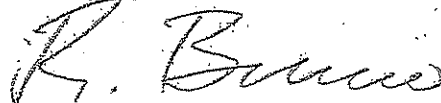
In addition, you should also be aware that my client has bachelor's degrees from the University of Minnesota in both architecture and Mechanical Engineering. Enclosed are records from the University of Minnesota registrar's office. In addition, my client has an additional one year of post-graduate study at the University of Minnesota in Architecture. My client has never implied that he is licensed by the State of Minnesota in either profession. His identification of himself in the consultation report for the single family home in question was meant as a designation of his educational degrees and not his licensure. Since receiving your letter he has changed his designation on other reports to make it clearer that he is identifying his degrees and not his licensure: "BSME, Mechanical Engineer; BA, Architecture.

Furthermore, my client's services in the consultation report in question were not rendered as "planning, design, or supervision of construction" or "planning, design or observation of construction" as required in Minn. Stat. Secs. 326.02, Subd. 2 and Subd. 3. Hence, his services, even if not exempt under Minn. Stat. Sec. 326.03, are not prohibited practice of architecture or professional engineering as those terms are defined. Since it is undisputed that he is not practicing architecture or professional engineering in the report in question, and that this building is exempt from regulation under the cited statutes, it is impossible for the report to have conveyed the impression that he was.

The bottom line is that no one has been misled here. Mr. Hardy is a front for the builder, he is not concerned about protecting the public welfare, life, health, or property in this instance.

If you have other questions, please direct them to this office.

Yours truly,



Robert J. Bruno

c: M. Piekarski

cc: 09/23/2003  
ID: 0725829

Piekarski, Michael Leo

MOST RECENT ACADEMIC PROGRAM:

<u>INSTITUTION</u>	<u>COLLEGE</u>	<u>PRIMARY ACADEMIC PLAN</u>	<u>SUBPLAN</u>	<u>DEGREE SOUGHT</u>
Twin Cities	Institute of Technology	None		

MOST RECENT ACADEMIC LEVEL: Non-degree

UNIVERSITY OF MINNESOTA DEGREES GRANTED:

BACHELOR OF ARTS  
GRANTED JUNE 12, 1971  
MAJOR ARCHITECTURE

BACHELOR OF  
MECHANICAL ENGINEERING  
GRANTED JUNE 10, 1978

\*\*\*\*\*END OF CERTIFICATION\*\*\*\*\*

Michael Piekarski  
2008 Friendship Lane  
Burnsville MN 55339

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## ADVANCED CONSULTING & INSPECTION

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Consulting Engineers Specializing in  
Building Inspections, Testing, and Structural Analysis

Mike L. Piekarski  
BSME, Mechanical Engineer  
BA, Architecture

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(952) 435-1068

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