

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

In the matter of Dennis R. Dunham
PROFESSIONAL ENGINEER
License Number 45627

STIPULATION AND ORDER

Board File No. 2006-0059

TO: Dennis R. Dunham
28 Snelling Avenue
Duluth, MN 55812

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2006) and Minnesota Statutes section 326.111 (2006) to review complaints against architects, professional engineers, land surveyors, landscape architects, geoscientists, and certified interior designers, and to take disciplinary action whenever appropriate.

The Board received information concerning Dennis R. Dunham ("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. The Respondent has held a license to practice Professional Engineering from the Board since April 24, 2007. Respondent is subject to the

jurisdiction of the Board with respect to the matters referred to in this Stipulation.

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

a. Respondent has been licensed to practice Professional Engineering by the State of Michigan since 1991 to the present. Respondent was first licensed to practice Professional Engineering in the State of Minnesota on April 24, 2007.

b. Before he became licensed to practice Professional Engineering in the State of Minnesota, Respondent held himself out as a Professional Engineer (PE) in a letter dated March 10, 2006. In that letter, the Respondent used the designation "P.E." after his signature. The return address on the letterhead is 309 NE 9th Avenue, Grand Rapids, MN, 55744. A true and correct copy of Respondent's March 10, 2006 letter is attached hereto as Exhibit 1.

c. Respondent states in a letter to the Board dated October 25, 2006 that he is licensed as a Professional Engineer in Michigan and that "It is my present intention to apply for P.E. licensure in Minnesota by comity." The Board received his comity application for a Professional Engineering license on November 22, 2006. Respondent signed this letter using the title PE (MI 6201036546). A true and correct copy of Respondent's October 25, 2006 letter is attached hereto as Exhibit 2.

d. Respondent submitted a sales brochure(s), a typical marketing letter he uses, dated August 2005, with his letter to the Board dated October 25, 2006. (See Exhibit 2.) Respondent held himself out as a Professional Engineer by using the designation "P.E." after his name. The return address on the

letterhead is 309 NE 9th Avenue, Grand Rapids, MN, 55744. A true and correct copy of Respondent's August 2005 letter is attached hereto as Exhibit 3.

e. Respondent submitted a business card to the Board with his letter dated October 25, 2006. (See Exhibit 2.) Respondent used the designation "P.E." after his name. Respondent held himself out as a Professional Engineer by using the designation "P.E." after his name. The business address on the card is 309 NE 9th Avenue, Grand Rapids, MN, 55744. A true and correct copy of Respondent's business card is attached hereto as Exhibit 4.

f. Respondent submitted his resume with his letter to the Board dated October 25, 2006. (See Exhibit 2.) Respondent uses the designation "P.E." after his name on his resume. Respondent held himself out as a Professional Engineer by using the designation "P.E." after his name. Respondent's address on the resume is 28 Snelling Ave, Duluth, MN, 55812. A true and correct copy of Respondent's resume is attached hereto as Exhibit 5.

g. Respondent gave full cooperation to the Board in its investigation of this matter.

3. Violations. Respondent admits that the facts specified above constitute a violation of Minnesota Statutes section 326.02, subd. 1 (2006) 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. Corrective Action. The Board acknowledges that Respondent has

voluntarily taken corrective action by applying for and receiving his Professional Engineering license in the State of Minnesota. In addition thereto, Respondent agrees to the following stipulations:

i) Respondent, in any advertisement or other publication which includes a Minnesota mailing address, may use the unqualified designation of Professional Engineer or "P.E." after his name only so long as he remains licensed by the State of Minnesota as a Professional Engineer.

ii) If Respondent ceases to be licensed as a Professional Engineer in Minnesota, then in any advertisement or other publication which includes a Minnesota business address, Respondent may use the designation of Professional Engineer or "P.E." only if either the phrase "Licensed only in Michigan" or the phrase "Not Licensed in Minnesota" is included in the advertisement or other publication next to that designation.

5. Additional Discipline for Violations of Order. If Respondent violates this Stipulation and Order, Minnesota Statutes Chapter 326 (2006), or Minnesota Rules Chapter 1800 (2005) or Minnesota Rules Chapter 1805 (2005), the Board may impose additional discipline pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least thirty days prior to the hearing, the Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Within fourteen days after the notice is mailed, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the

allegations may be deemed admitted.

b. At the hearing before the Board, the Complaint Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice or suspension or revocation of Respondent's license.

6. 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, to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2006), and to dispute the civil penalty imposed by this Agreement. 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. 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 (2006), Respondent agrees not to object to the Board's initiation of the proceedings 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.

8. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Stipulation and Order and which is not directly related to the specific facts and circumstances set forth herein.

9. 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.

10. Data Classification. Under the Minnesota Government Data Practices Act, this Stipulation and Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2006). 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 (2006). 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. A summary will also be sent to the national discipline data bank pertaining to the practice of professional engineering.

11. 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.

12. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

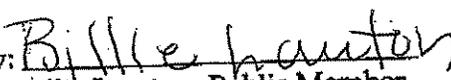
13. Service. If approved by the Board, a copy of this Stipulation and Order shall be served personally or by first class mail on Respondent. The Order shall be effective and deemed issued when it is signed by the Chair of the Board.

RESPONDENT


Dennis R. Dunham

Dated: April 30, 2008

COMPLAINT COMMITTEE

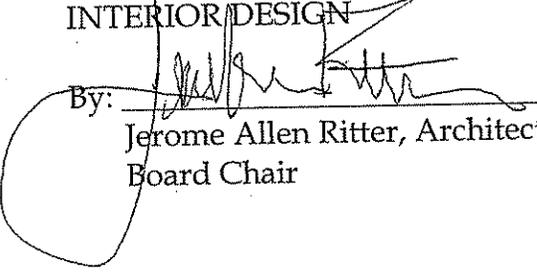
By: 
Billie Lawton, Public Member,
Committee Chair

Dated: 5-09-08 2008

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 hereby issued as an Order of this Board on this the 9th day of MAY, 2008.

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

By: 

Jerome Allen Ritter, Architect, CID
Board Chair

FOAM CONCEPTS INC.

www.foamconceptsinc.com

March 10, 2006

USDA Forest Service
Northern Acquisition Management Zone
2113 Osuna Rd. NE
Albuquerque, NM 87113

To Whom It May Concern,

Due to a ruling by the SBA, by affiliation, Foam Concepts Inc is NOT a SMALL BUSINESS. I have included a revised and initialed Bidder List Application Form for your files.

Please contact me with any questions.

Sincerely,



Dennis Dunham P.E.
General Manager
ddunham@foamconceptsinc.com

309 NE 9th Avenue Grand Rapids, MN 55744
1-800-556-9641 Sales
1-888-744-7584 Factory
1-877-327-1196 Fax

EXHIBIT I

Note:

This Foam Concepts, Inc. letter resulted from an investigation FCI initiated against their only competitor, MineSeal, LLC. MineSeal, LLC was cleared of any wrong doing and FCI had to write this letter.

The SBA Chicago Area Office investigated Foam Concepts, Inc. and, on Oct. 5, 2004 determined FCI was not a small business. FCI was advised to remove its designation as a small business from the federal CCR and SBA's Dynamic Small Business search.

RECEIVED

OCT 26 2006

OCT 26 2006

Dennis Dunham
28 Snelling Ave
Duluth, MN 55812
218-340-1838

October 25, 2006

Minnesota Board of Architecture, Engineering, Land Surveying,
Landscape Architecture, Geoscience & Interior Design
85 East 7th Place, Suite 160
St. Paul, MN 55101

Re: *Dennis Dunham, Your file No. 2006-0059*

Dear Board Members:

On October 19, 2006 I received correspondence from your office enclosing a complaint to you made against me by a Nell Gutierrez of Gilbert, Arizona. I am familiar with Ms. Gutierrez, but have never had direct contact with her.

Contrary to the allegations, I am a registered professional engineer. Enclosed is a copy of my Michigan P.E. license, my resume and my engineering diploma. My Michigan P.E. license was issued in 1991 and does not expire until October 2007. I have never used the designation "Professional Geologist."

Neither Foam Concepts nor I provide or offer to provide engineering services to anyone. Foam Concepts, LLC, and its predecessor, Foam Concepts, Inc. sell foam products internationally to the mining and mine reclamation industries. Currently less than 15% of Foam Concepts' business is in Minnesota and we have not sold the foam product referred to in the complaint in Minnesota since April 2005. On October 1, 2006 the assets of Foam Concepts, Inc., my prior employer, were purchased by Foam Concepts, LLC, a Minnesota limited liability company, of which I am an owner.

Also enclosed is the following requested information: a Foam Concepts sales brochure(s), a typical marketing letter, standard letterhead, my business card, and a trade advertisement run during the specified period. Our website is www.foamconceptsllc.com.

Finally, I have maintained my Michigan P.E. registration to allow further licensure at a future date. It is my present intention to apply for P.E. licensure in Minnesota by comity.

EXHIBIT 2

Minnesota Board of Architecture, Engineering, Land Surveying,
Landscape Architecture, Geoscience & Interior Design
October 25, 2006
Page 2

I offer you my full cooperation and will provide additional information as you request.
Until such time as this matter is resolved, I will annotate any correspondence to customers or
potential customers to include my Michigan P.E. license number.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dennis Dunham', with a long horizontal line extending to the right.

Dennis Dunham, PE (MI 6201036546)
Sales & Technical Manager
Foam Concepts, LLC

Encl.

FOAM CONCEPTS INC.

www.foamconceptsinc.com

August 2005

Foam Concepts Inc. (FCI) is a leading source of water blown **polyurethane foam** (PUF) which is an **environmentally friendly** product used for **void filling** and to seal up **abandoned mine openings**. Our product is **self-contained, portable** and requires no special equipment or training. Our liquid-to-solid rigid foam is available in bags suitable for **backpacking to remote sites** or in 55-gallon drums for **bulk pours** at more accessible locations. PUF from Foam Concepts has been used throughout North America by state and federal agencies, contractors and private landowners to **reduce the hazards of abandoned underground mines**.

Foam Concepts Equipment-less Foam Sealant (EFS) is a patented method of achieving **structural closure** of any underground opening including **subsidence features**. EFS can also be used to create a **bottom form** for pouring **concrete shaft caps**.

FOAMPLUG from Foam Concepts is another polyurethane product packaged to plug **drill holes** and in some situations, **wells**.

Call or visit our website for more information www.foamconceptsinc.com.

Thank you,

Dennis Dunham P.E.
Sales and Marketing Manager
ddunham@foamconceptsinc.com
1-800-556-9641
218-327-1196 fax

EXHIBIT 3

309 NE 9th Avenue Grand Rapids, MN 55744
1-800-556-9641 sales
1-888-744-7584 factory

FOAM CONCEPTS INC.
www.foamconceptsinc.com

sales 1-800-556-9641
cellular 1-218-340-1838

Dennis Dunham P.E.
Sales & Marketing Manager

309 NE 9th Avenue
Grand Rapids, MN 55744
1-888-744-7584
1-218-327-1196 (Fax)

ddunham@foamconceptsinc.com

EXHIBIT 4

28 Snelling Ave.
Duluth, MN 55812
218-724-0138
218-340-1838 cell
ddunham@chartermi.net

Dennis Dunham, PE

Objective

Sales and product management for underground mining equipment manufacturer.

Qualifications

- Identify, source, adapt and apply cost and time saving products and methods in underground mines, including customer training and product development and testing
- Strategic planning, budgeting and financial analysis
- Create and deliver presentations on products and technologies
- Worked with pneumatic and hydraulic rotary-percussive and rotary drilling in face rounds, benching, brushing and roof bolting
- Project management for mechanical and structural systems underground
- Broad range of technical knowledge from power distribution, ground control and ventilation to telecommunications and economics
- Underground supervision, management and engineering experience
- Underground installation of rotating equipment including motors, fans, pumps, head pieces, power transmission and controls
- Registered professional engineer.

Career Progression

General Manager, Foam Concepts Inc., Grand Rapids, MN August 2005 to present

Responsible for daily operations of mining related manufacturing firm including hiring, firing, scheduling, budgeting and purchasing. Successfully lead company in double digit sales growth. Identify and develop three new market segments.

Sales Manager, Foam Concepts Inc., Grand Rapids, MN November 2003 to present

Responsible for sales and marketing of mining related products (blasting accessories, mine closure product/method). Re-establish distributor program and pricing methods. Help customers adapt and implement products, train customer and distributor personnel. Create and implement marketing campaigns and deliver technical presentations. Plan and staff booths at tradeshow.

Technology Consultant, Minnesota Technology, Duluth, MN May 1997 to July 2003

Work with businesses on technology, growth and planning issues, including strategic planning. Develop and implement telecommunications and internet assessments for clients.

EXHIBIT 5

Business Owner, Mine Systems & Services, Ironwood, MI March 1993 to May 1997

New product, new market development and application of underground mining products. Establish relationships with mines in US and Canada to apply time and cost saving products and methods; these included ventilation control structures, power distribution equipment, communications devices and ground control products and accessories. Consulting work included equipment evaluation and procurement, mine layout and new product development.

Mine Operations Experience, January 1984 to December 1993

Ten years underground experience in production supervision, projects, planning, engineering and management. Supervised face crews in production, maintenance and support/service construction. General Foreman with four crews and 8,000 tps capability. Mine layout and surveying, (location and control), ventilation planning and implementation, power, conveying and pumping installation. Projects include highwall stabilization, portal construction, main fan installations, bulkhead and door construction, conveyor installations. Work on mine methods, budgeting, cost analysis, equipment selection and planning.

Copper Range, White Pine, MI, January 1990 to December 1993
General Mine Foreman, Senior Mining Engineer

Elmhurst Chicago Stone, Elmhurst, IL, February 1987 to December 1989
Mine Engineer

Georgia-Pacific, Blue Rapids, KS, January 1984 to January 1987
Mine Engineer/Foreman

Education

Registered Professional Engineer, Michigan

BS Mining Engineering, Penn State University, University Park, PA.
Graduate work, Virginia Tech, Blacksburg, VA.

Economic Development Finance Professional certification, National Development Council

Professional Memberships

Society of Mining Engineers

International Society of Explosives Engineers

Charter member and treasurer, Heartland Chapter, Society of Explosives Engineers

Community Involvement

Little League baseball coach and umpire

Youth hockey coach and referee

Community Development Block Grant advisory board member

United Way volunteer

Salvation Army bell ringer

