

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

In the matter of Gregory Engel
PROFESSIONAL ENGINEER
License Number 23779

STIPULATION AND ORDER

Board File No. 2011-0068

TO: Gregory Engel
3845 Walnut Grove Lane North
Plymouth, Minnesota 55446

RECEIVED
SEP 29 2011

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2010) and Minnesota Statutes section 326.111 (2010) 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 Gregory Engel ("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 was first issued a Professional Engineer license by the Board on February 13, 1995. 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 was first licensed as a Professional Engineer in the State of Minnesota on February 13, 1995.

b. On July 1, 2008, Respondent's Minnesota Professional Engineer license in the State of Minnesota expired.

c. Respondent's 'Application for License/Certificate Reinstatement through 6/30/2012' was processed on February 16, 2011 and effective, January 31, 2011, the date the application was received.

d. Respondent's Minnesota Professional Engineer license is current with an expiration date of June 30, 2012.

e. On February 11, 2011, Lynette DuFresne, Board Investigator, had a message from Andrea Barker, State Program Administrator/Intermediate, to call the Respondent as he called asking to have his reinstatement fees returned. Lynette DuFresne called the Respondent on February 11, 2011, at approximately 2:08 P.M. Respondent stated to her that no where does it say that he has to fill out the Affidavit For Reinstatement form. Lynette DuFresne asked the Respondent if he had a copy of the Tennessen Warning. Respondent said he had a copy of the Tennessen Warning. Lynette DuFresne then asked the Respondent if he would like it read it to him and if he had any questions on the Tennessen Warning before they continued the conversation. Respondent told Lynette DuFresne that he did not have any questions on the Tennessen Warning.

Lynette DuFresne stated his license may not be renewed if he did not sign the Affidavit For Reinstatement. Lynette DuFresne informed the Respondent that everyone is asked to complete the Affidavit For Reinstatement form and asked the Respondent if he had a problem signing it. At the time of this telephone conversation, the Respondent's 'Application for License/Certificate Reinstatement through 6/30/2012' had not been processed and was still showing an expired status on the Board's computer license database. Respondent stated to Lynette DuFresne that he may have inadvertently used PE after his name when his license was expired and that this was an honest mistake. It was at this point that the Respondent self reported he may have held himself out as a PE. Respondent stated to Lynette DuFresne that he could not sign the affidavit and that he wanted his money back.

f. During the time Respondent's license was expired (July 1, 2008 until January 31, 2011), Respondent admits that he inadvertently held himself out as a Professional Engineer. In a letter dated March 29, 2011, Respondent stated: "When I joined [REDACTED] in July of 2007, my PE license was up to date. I decided to put PE behind my name on my business cards and on the closing statement in my email. I did this prior to the lapse of my license. When my license lapsed, since I was unaware of the lapse, I continued to use the same business cards. I used them infrequently, mainly when I interviewed candidates looking for jobs at [REDACTED]. As with my business card, my company e-mail signature was set up while my license was enforce and did include a PE

designation. When I discovered that my license had lapsed I stopped using the business cards with PE, I also changed my email closing to remove the PE designation." (The company name was redacted at the request of the Respondent.)

g. Respondent stated in a letter to the Board on March 29, 2011 and to the Complaint Committee at a conference on August 17, 2011, which Respondent requested, that he felt misled by two (2) Board Staff in telephone conversations that if he did not complete the Affidavit For Reinstatement, his license would not be renewed, but that the license had been renewed on January 31, 2011. A true and correct partial copy of the March 29, 2011 letter signed by the Respondent is attached as Exhibit A.

h. Respondent's application was received on January 31, 2011 without the Affidavit For Reinstatement. The Board processed the Respondent's renewal on February 16, 2011 and the 'Application for License/Certificate Reinstatement through 6/30/2012' was effective as of date the application was received, January 31, 2011.

i. Respondent admitted at the conference with the Committee on August 17, 2011, after the Tennessen warning, that he held himself out on his business cards and on emails during the lapse of his license as he was not aware it was lapsed. Respondent stated that he handed out approximately ten (10) business cards a year.

3. Violations. Respondent admits that the facts specified above constitute

violations of Minnesota Statutes section 326.02, subdivision 1 (2010) and are sufficient grounds for the action specified below. Specifically, the Committee's position is that the Respondent held himself out as a Professional Engineer during the expiration of his Minnesota Professional Engineer license from July 1, 2008 until January 31, 2011.

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

- a. Reprimand. Respondent is reprimanded for the foregoing conduct.
- b. Civil Penalty. Respondent shall pay to the Board a civil penalty of One Thousand ~~Hundred~~ Dollars (\$1,000.00). Respondent shall submit a civil penalty of One Thousand ~~Hundred~~ 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. Additional Discipline for Violations of Order. If Respondent violates this Stipulation and Order, 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 Complaint Committee may submit affidavits responding to any affidavits submitted by Respondent. 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 (2010), 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. Collection. In accordance with Minnesota Statutes section 16D.17 (2010), 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. 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 (2010), 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.

9. 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.

10. 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.

11. 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 (2010). 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 (2010). 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 engineering.

12. 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.

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


14. 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


Gregory Engel

Dated: 9-27, 2011

COMPLAINT COMMITTEE


By: 
Lisa Hanni, LS
Committee Chair

Dated: Oct 14, 2011

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 14th day of October, 2011.

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

By: 
William D. Arockiasamy, PE
Board Chair

Scott D. [Redacted]

jobs, all with mobile equipment manufacturers, none that required PE signoff for their business transactions. I don't recall ever having signed a document in an official capacity as a PE in my whole career. These facts led to my unfamiliarity with the rules and my failure to keep my license renewed on time.

Again, these are not excuses, but they do shed some light on my situation.

Finally, regarding the statement that I "may have self reported" to you in a phone call. In our call on 2-11-11, you stated that my license could not be renewed without a signed affidavit. I recall that I proceeded to ask clarifying questions, I was concerned because my renewal check had been cashed several weeks prior, it made no sense to me that the fee could be processed but not the license. I stated to you several times that I wanted to be very honest and forthcoming about my situation. And I have been. Subsequently, on 2-15, I was told by Ms Frost that my license had been renewed on 1-31, prior to the conversation between you and me. I do not understand why I was misled in this way in our conversation.

Additional information is attached. I have enclosed a business card, my current job description, and two pages that show my email closing, one prior to discovering that my license lapsed, the other afterward. [Redacted]

Regards,

Greg Engel

Greg Engel

Current title: [Redacted]

Previous title: [Redacted]

Employer since July, 2007: [Redacted]

EXHIBIT A

