

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

**In the matter of Gary Caskey
PROFESSIONAL LAND SURVEYOR
License Number 43502**

STIPULATION AND ORDER

Board File No. 2012-0005

TO: Mr. Gary Caskey
Kadrmas, Lee and Jackson
2750 Gateway Drive Suite F
Grand Forks, North Dakota 58203-0811

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 Gary Caskey ("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 Land Surveyor license by

the Board on July 7, 2004. 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 Land Surveyor in the State of Minnesota on July 7, 2004.

b. On July 1, 2010, Respondent's Minnesota license to practice land surveying in the State of Minnesota expired.

c. On July 28, 2011, Respondent's Minnesota land surveyor license was reinstated.

d. As of the date of this Stipulation and Order, Respondent's Minnesota land surveyor license status is current with an expiration date of June 30, 2012.

e. Respondent's Minnesota land surveyor license lapsed from July 1, 2010 until July 28, 2011.

f. On June 27, 2011, Respondent self reported that he did not realize his land surveyor license had lapsed and that he had used the title of 'LS' during the time his license had lapsed.

g. In a letter dated August 28, 2011, Respondent states that during the lapse of his license, the following wording was on his business card for Gowan Construction: "Gary Caskey, RLS ND, MN, WY".

h. Respondent provided a business card from Kadrmas Lee & Jackson which he used beginning in March 2011, on which it states: Gary Caskey,

LS, Registered in: ND, MN, WY.

i. In his letter dated August 28, 2011, Respondent states that he worked for McGowan Construction from March 2010 to March 2011, and the only two (2) things he did for Gowan Construction in Minnesota was to stake and grade the extension of two (2) concrete pads for beet storage.

j. In a letter dated September 6, 2011, Respondent states that he worked on two (2) different jobs in Minnesota for Gowan Construction. Both projects were the expansion of beet storage pads, one in Crookston and one in Stephen, Minnesota.

k. Respondent filed four (4) 'Certificate of Location of Government Corner' documents with Clearwater County, Minnesota on September 1, 2011. The four (4) corners were located at:

k.1 East $\frac{1}{4}$ Corner of Section 26, Township 149, Range 37, 5th P.M., signed and certified by the Respondent on April 20, 2011.

k.2 Southwest Corner of Section 26, Township 149, Range 37, 5th P.M., signed and certified by the Respondent on April 19, 2011.

k.3 Southeast Corner of Section 26, Township 149, Range 37, 5th P.M, signed and certified by the Respondent on April 20, 2011.

k.4 West $\frac{1}{4}$ Corner of Section 26, Township 149, Range 37, 5th P.M., signed and certified on April 19, 2011.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1 and 4 (2010), Minnesota

Statutes section 326.03, subdivision 1 (2010), and are sufficient grounds for the action specified below. Specifically, Respondent held himself out as a Land Surveyor and practiced land surveying, in the State of Minnesota, during the time when Respondent's Minnesota Land Surveyor license had expired.

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 Three Thousand Dollars (\$3,000.00). Respondent shall submit a civil penalty of Three Thousand Dollars (\$3,000.00) 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 land surveying.

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

Gary Caskey
Gary Caskey

Dated: 5-3, 2012

BOARD
COMPLAINT COMMITTEE

By: [Signature]
~~Lisa Harri, LS~~ Coral Peterson
Committee ~~Chair~~ Vice CHAIR

Dated: 6-7, 2012

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 7th day of June, 2012.

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

By: [Signature]
~~William D. Arockiasamy, PE~~ LISA M. HARRI, LS
Board Chair

