

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

In the matter of Martin Bonnell
PROFESSIONAL ENGINEER
License Number 14010

STIPULATION AND ORDER

Board File No. 2011-0040

TO: Mr. Martin D. Bonnell
172 Spruce Drive
Apple Valley, Minnesota 55124

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2012) and Minnesota Statutes section 326.111 (2012) 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 Martin Bonnell ("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 Board initially issued a Professional Engineer's license to the Respondent on August 29, 1979. Respondent currently is licensed as a Professional Engineer by the Board. 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 August 29, 1979.

b. Respondent's State of Minnesota Professional Engineer's License is current with an expiration date of June 30, 2014.

Background information: Process for Petrofund Reimbursement

When a Responsible Party (owner or operator of a tank) has a spill/leak, the Responsible Party reports the release to the State Duty Officer, which notifies the Minnesota Pollution Control Agency (MPCA). The MPCA then notifies the Petrofund, which reimburses the Responsible Party for a significant portion of their costs to investigate and clean up the spill/leak. When made aware of a spill/leak, the Petrofund sends out an information packet to the Responsible Party that includes instructions for hiring a Petrofund-registered environmental consultant to investigate and clean up the spill/leak. Responsible Parties generally must obtain a minimum of two (2) written competitive consultant proposals from Petrofund-registered consultants. These proposals must be based on identical assumptions about the characteristics of the site and substantially similar assumptions as to the scope of work proposed. Failure of the Responsible Party to comply with the competitive bidding requirements typically results in a reduction in the Responsible Party's reimbursement.

c. In a letter dated December 28, 2010 from the Respondent, Respondent admits to assisting a client of Vieau Associates in changing the date on a competitive

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bid for cleanup on a Minnesota Pollution Control Agency (MPCA) Leak site. "One older retired client of Vieau Associates whose Petrofund reimbursement was reduced by the Petrofund by 5% for not having an "apples to apples" bid, repeatedly requested my assistant to fix the situation. After several years and three Petrofund applications that were reduction, I did assist the Responsible Party...[sic]..."

c. Additionally, in a letter dated January 18, 2011 from the Respondent regarding this same client and instance, Respondent states that the Responsible Party signed the Vieau Associates bid before receiving another competitive bid. Respondent stated: "When the next Petrofund application was being prepared it was discovered that the Responsible Party signed our bid before receiving a competitive bid. So again I explained that the Petrofund would again reduce his application 5% or approximately \$500.00 due to the dates on the bids. The look on the Responsible Party face and the frame of mind that I was in as I explained in my December 28 letter, I assisted the Responsible Party in changing the date on the competitive bid." Respondent admitted to backdating a competitive bid so the Client would not be assessed a penalty when the Client was reimbursed by the Petrofund.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.111, subdivision 4 (a) (1), (2), and (3) (2012), and Minnesota Rules Chapter 1805.0200, subpart 1 and subpart 4 (C) and (D) (2011) and are sufficient grounds for the action specified below. Specifically, Respondent did not conduct himself properly as a Professional Engineer by diminishing public confidence, engaged in conduct involving dishonesty or misrepresentation, and engaged in conduct

that adversely reflects on his fitness to practice as a Professional Engineer.

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.

c. Ethics Course Required. Respondent shall successfully complete an eight (8) hour course in professional ethics approved in advance by the Complaint Committee. Respondent must complete the course and submit the course completion certification or similar copy to the Board within one (1) year of the Board's approval of this Stipulation and Order. Respondent shall not use these eight (8) hours as part of his continuing educational hours required for license period ending June 30, 2014.

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 (2012), 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 (2012), 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 (2012), 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.

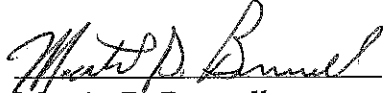
11. Data Classification. Under the Minnesota Government Data Practices Act, this Stipulation and Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2012). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2012). 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.

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


Martin D. Bonnell

Dated: January 10, 2013

COMPLAINT COMMITTEE

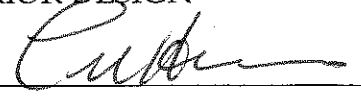
By: 
Bruce Johnson, PG
Committee Chair

Dated: 2-11, 20 13

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 11 day of February, 20 13.

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

By: 
Lisa Hanni, LS
Board Chair