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

In the matter of Martin D. Bonnell
PROFESSIONAL ENGINEER
License Number 14010

STIPULATION AND ORDER

Board File No. 2013-0011

TO: 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 D. 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 Respondent was first issued a Minnesota Professional Engineer license by the Board on August 29, 1979. 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 License is current with an expiration date of June 30, 2014.

c. In a letter dated September 20, 2012 from David Vieau, President of Vieau Associates, Inc. ("Vieau Associates"), submitted with the Complaint Form he filed with the Board, Mr. Vieau stated that the Respondent was an employee of Vieau Associates from April 1, 2004 until February 10, 2010. Mr. Vieau stated: "Bonnell was an employee of Vieau Associates from 4/01/04 to 02/10/10, and was terminated in connection with a Petrofund investigation of Bonnell's actions during his employment with the company."

d. In his September 20, 2012 letter, David Vieau stated: "Valley Oil was furnished a "Proposal-UST Removal Assessment" dated 01/16/08 signed by Bonnell, for subsequent remedial investigation work. Valley Oil signed (authorized) the Proposal on 01/17/08." Valley Oil Company became a client of Vieau Associates, Inc. by signing the proposal. In this same letter dated September 20, 2012, Mr. Vieau stated that "Valley Oil did not become a client of Vieau Associates until end of January 2008." Mr. Vieau stated that the records at Vieau Associates indicate that work for Valley Oil Company began in January 2008 and was completed in July 2010.

e. According to David Vieau's September 20, 2012 letter, before Valley Oil Company became a client of Vieau Associates, Respondent offered to and performed professional engineering services for Valley Oil, specifically tank removal and assessment work, including arranging for laboratory testing of samples, during the first week of December 2007. Respondent utilized Vieau Associates' name in connection with this work. Mr. Vieau states that Respondent signed original laboratory chain of custody forms, which he says indicate that Respondent was doing the field work for Valley Oil on December 3, and 6, 2007. Vieau Associates' name was listed on these forms which Respondent signed as "Project Manager." Per the chain of custody forms signed by Respondent, identifying Vieau Associates as the customer of Test America, the laboratory testing company's invoices were sent to Vieau Associates.

f. According to David Vieau's September 20, 2012 letter, before Valley Oil became a client of Vieau Associates, Respondent sent Valley Oil an invoice on Vieau Associates letterhead, directing that payment for petroleum investigation services in December 2007 be made directly to Respondent at his address. Mr. Vieau provided a copy of the invoice to the Board. This invoice was dated 12/28/07, for Project Number #7198, for Valley Oil, Invoice Number 2007415, 'For Petroleum Investigation Service' for the service period from December 1, 2007 through December 28, 2007. The amount of the invoice was $2,503.90. The remittance instructions on Invoice Number 2007415 directed Valley Oil to submit

payment to: Martin Bonnell, 172 Spruce Drive, Apple Valley, Minnesota, 55124. In his September 20, 2012 letter, David Vieau stated that this Invoice Number 2007415 was "clearly fabricated" by the Respondent, as the project number and invoice number do not correspond with Vieau Associates' time and billing system project and billing records.

g. The copy of the invoice to Valley Oil dated 12/28/07, provided to the Board, contains a handwritten notation that the 12/28/07 invoice was paid on January 25, 2008 with check number 8193. Mr. Vieau provided the Board with a copy of the Valley Oil check, made payable to Respondent, dated January 25, 2008, in payment of the full amount due listed on the 12/28/07 invoice. In the memo line of the Valley Oil check, it stated: "Inv # 2007415."

h. In this same letter dated September 20, 2012, David Vieau states that the Respondent's time sheet for the week of December 3, 2007 shows no work on a project #7198.

i. Respondent was paid by Valley Oil Company on January 25, 2008, by check number 8193, made payable to Martin Bonnell, in the amount of Two Thousand Five Hundred Three Dollars and ninety cents, ($2,503.90).

j. In a 'General Excavation Report Worksheet,' for the Minnesota Pollution Control Agency ("Excavation Report"), which Respondent signed on July 14, 2009, it stated on page 2, under PART II: DATES:

A. Date release reported to MPCA: 12/3/07

B. Dates site work performed (tanks removed, piping removed, soil

excavation, soil borings, etc): Work Performed – Removed two underground storage tanks, 12/3/07 and 12/6/07.

k. In this same Excavation Report, it stated that Vieau Associates Inc. completed the tank removal assessment work although that work was actually completed by the Respondent prior to Valley Oil Company becoming a client of Vieau Associates. In doing so, Respondent misrepresented who performed the tank removal assessment work for Valley Oil in December 2007. The report included copies of a form for Test America where Respondent signed for samples taken for Valley Oil Company on December 3, 2007 and December 6, 2007.

l. Regarding the Excavation Report prepared by Respondent, in his September 20, 2012 letter, Mr. Vieau stated: "1. It represents incorrectly that Vieau Associates completed tank removal assessment work that was actually completed in moonlighting fashion by Bonnell. It raises questions regarding insurance coverage and liability exposures to Valley Oil and Vieau Associates for the tank removal work." Mr. Vieau further stated: "2. It contains original laboratory chain of custody forms...signed by Bonnell, proving he was the individual doing the field work on December 3 and 6, 2007. Normally, the company would have sent a more junior-level employee to do this kind of work, not a highly experienced and more highly paid (with commensurately higher billing rates) Professional Engineer."

m. In a letter dated January 16, 2008 on Vieau Associates letterhead,

addressed to Valley Oil Company, signed by Respondent, Respondent provided copies of two invoices from Test America. They were for Invoice Number #61704120 and #61704284 for the chemical analysis of the underground and above ground storage tanks removal at Valley Oil Company. Invoice number 61704120 was for the samples taken on December 3, 2007. Invoice number 61704284 was for the samples taken on December 6, 2007. Respondent stated in that letter that Vieau Associates Inc. had reviewed the Test America invoices and recommended payment. In his September 20, 2012 letter to the Board, Mr. Vieau stated that the January 16, 2008 date of the letter "clearly precedes the date of Vieau Associates' contractual engagement with Valley Oil."

n. In his letter dated September 20, 2012 from David Vieau, David Vieau stated: "Valley Oil was furnished a "Proposal – UST Removal Assessment" dated 01/16/08 signed by Bonnell, for subsequent remedial investigation work. Valley Oil signed (authorized) the Proposal on 01/17/08. The tank removal soil test results from December 2007 resulted in discovery of a leak that was reported to the Minnesota Pollution Control Agency (MPCA). The MPCA subsequently directed Valley Oil to complete additional investigation. It makes sense that Bonnell would furnish this Proposal formally from Vieau Associates, since the investigation work would require the company's full resources, including our Petrofund Registration and Petrofund's or the client's requirements for professional

and general liability insurance, which as an individual or independent contractor Bonnell did not likely have. It would not be unusual for tank owners not to demand evidence of Petrofund Registration and commercial insurance coverage for only a small, short-term tank removal project. On the Vieau Associates Proposal, Bonnell incorrectly indicates in the "subject" line (see top of page 1, "Re:") that the proposal is for UST Removal Assessment (the work he already completed in moonlighting fashion in December). This suggests he may have sent Valley Oil an "under cover" proposal for the tank removal work earlier, and modified a Word document for the January Proposal. Up to this point, no documentation report covering the December tank removal work had been completed or submitted, which is not unusual, but the 12/28/07 invoice included charges for an Excavation Report; the formal Excavation Report was not completed and signed until July 2009 (see below)."

o. In a letter dated November 8, 2007 from Respondent to the Minnesota Pollution Control Agency (MPCA) on Vieau Associates, Inc. letterhead, Respondent writes the letter to update the MPCA on the status of alleged violations the MPCA identified on its August 9, 2007 underground storage tank (UST) inspection at Valley Oil Company. The salutation block in the letter stated: "Marty Bonnell, PE, Senior Civil Engineer, 172 Spruce Drive, Apple Valley, MN, 55124."

p. In another letter to the Board, dated October 8, 2012, David Vieau stated: "In searching our project files for the requested RFP, I discovered

a letter on Vieau Associates letterhead addressed to the MPCA dated November 8, 2007 (copy enclosed). This letter was signed by Mr. Bonnell as a representative of Vieau Associates. As noted, I had no knowledge of any professional services being furnished to Valley Oil Company prior to our formal engagement in January 2008. I checked Mr. Bonnell's original time sheets covering the key dates August 29, 2007 (the reported RFP date) and November 8, 2007 (the date of the referenced letter to MPCA); no project numbers on Bonnell's time sheets correspond to any project related to Valley Oil Company (copies of the time sheet are enclosed). This tells me that Mr. Bonnell was essentially misrepresenting professional services to Valley Oil Company as Vieau Associates employee as early as November 8, 2007. It would not be unusual for Mr. Bonnell to have been in correspondence with a prospective client well before a date of formal engagement, but it would not have been acceptable to communicate in the manner demonstrated by the 11/8/07 letter, with a regulatory agency on behalf of a party that had not formally engaged our company for professional services."

q. In his October 8, 2012 letter to the Board, David Vieau provides further information, as follows: "Valley Oil Company first became a "formal" client of Vieau Associates as of January 17, 2008, when Valley Oil Company signed our Proposal dated January 16, 2008, that was prepared by Martin Bonnell. Information found in our project file shows that Mr. Bonnell had met with representatives of Valley Oil Company at

least as early as August, 2007, the circumstances of which are not known to me."

r. In his October 8, 2012 letter to the Board, David Vieau provided a copy of the "Project Authorization Form" dated January 25, 2008. Mr. Vieau stated: "I am also enclosing a copy of our company "Project Authorization Form" that was completed by Mr. Bonnell and dated January 25, 2008 - the date this project and client first came to my attention."

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.111, subdivisions 4 (a) (1), (2), (3) and (4) (2012), and Minnesota Rule 1805.0200, subparts 1, 4 (C) and 4 (D) (2011) and are sufficient grounds for the action specified below. Specifically, it is alleged that: (a) Respondent misrepresented that Vieau Associates, Inc. was performing services for Valley Oil Company prior to Valley Oil Company becoming a client of Vieau Associates; (b) that Respondent committed acts of dishonesty, fraud, and/or misrepresentation by submitting an invoice on Vieau Associates, Inc. letterhead, dated December 28, 2007 to Valley Oil Company and directing on the invoice that the remittance be sent to: Martin Bonnell, 172 Spruce Drive, Apple Valley, MN and not Vieau Associates, Inc., (c) that Respondent committed acts of dishonesty, fraud and/or theft by accepting and retaining the payment of Two Thousand Five Hundred Three Dollars and ninety cents ($2,503.90) from Valley Oil Company, Inc. via check dated January 25, 2008 made payable to Respondent, and (d) that Respondent engaged in conduct involving dishonesty, fraud, deceit, misrepresentation and conduct that

adversely reflects on Respondent's fitness to practice the profession; (e) that Respondent engaged in conduct or acts that adversely reflects on Respondent's fitness to practice the profession; and (f) that Respondent engaged in conduct or acts that are in violation of the standards established by Minnesota Rules Chapter 1805, where the conduct or acts relate to the practice of engineering, within the meaning of Minnesota Statutes Chapter 326, as follows: (1) when Respondent knowingly utilized Vieau Associates Inc's name and letterhead, and listed Vieau Associates on documents and on his communications to others and in relation to professional engineering services that Respondent personally performed for Valley Oil Company, without the knowledge or approval of Vieau Associates prior to Valley Oil Company becoming a client of Vieau Associates; (2) when Respondent knowingly issued a fabricated 12/28/07 invoice to Valley Oil Company on Vieau Associates Inc. letterhead and directed Valley Oil Company on the invoice to send the remittance to Respondent at his address; and (3) when Respondent accepted payment to himself for the work he did for Valley Oil Company prior to Valley Oil Company becoming a client of Vieau Associates Inc.

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

a. Revocation. Respondent's Minnesota Professional Engineer license is revoked.

b. Civil Penalty. Respondent shall pay to the Board a civil penalty of Ten Thousand Dollars ($10,000.00). Respondent shall submit a civil penalty of Ten

Thousand Dollars ($10,000.00) 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(s) Required. Respondent shall successfully complete sixteen (16) hours of course(s) in professional ethics which are approved in advance by the Complaint Committee. Respondent must complete the course(s) and submit the course completion certification(s) or similar copy acceptable to the Board within one (1) year of the Board's approval of this Stipulation and Order. Respondent shall not use these sixteen (16) hours as part of his continuing education hours required for reinstatement or thereafter, should his license eventually be reinstated.

d. Conditions for Reinstatement of License. Respondent agrees that he will not apply to reinstate his Minnesota Professional Engineer license until at least two (2) years after the date the Board Chair signs this Stipulation and Order. After the two (2) year period has been completed, Respondent may apply to reinstate his revoked Minnesota Professional Engineer license. Respondent's reinstatement application will be reviewed and considered by the Board pursuant to Minnesota Statutes section 326.10, subdivision 9 (2012), Minnesota Statutes section 326.111, subdivisions 4 and 7 (2012) and other applicable Board statutes and rules in effect at the time the application for reinstatement is submitted.

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: 10/17, 2013

SUBSCRIBED and sworn to before me on this the 17 day of October, 2013.

KIMBERLY E KOSMICKI
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/15

(Notary Public)

My Commission Expires:

Jan 31, 2015

COMPLAINT COMMITTEE

Bruce Johnson, PG
Committee Chair

Dated: 12·6·13, 2013

ORDER

Upon consideration of the foregoing Stipulation and Order and based upon all the files, records, and proceedings herein, all terms of the Stipulation and Order are approved and adopted and hereby issued as an Order of this Board this the 6th day of DECEMBER, 2013.

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

By: ~~Lisa Hanni, LS~~
Board Chair
DOUGLAS C COOLEY PE

AFFIDAVIT OF SERVICE BY MAIL

RE: In the matter of Martin D. Bonnell
PROFESSIONAL ENGINEER
License Number 14010

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lynette DuFresne, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 9th day of December, 2013, she served the attached **Stipulation and Order**, by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class and certified postage prepaid, and addressed to:

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

CERTIFIED MAIL
Return Receipt Requested
7012 0470 0000 4959 0295

Lynette DuFresne
Lynette DuFresne

Subscribed and sworn to before me on
this the 9th day of December, 2013.

Victoria E Oehrlein
(Notary Public)

Victoria Elizabeth Oehrlein
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2015