

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

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In the matter of Anthony Winiiecki  
PROFESSIONAL ENGINEER  
License Number 23128

STIPULATION AND ORDER

Board File No. 2013-0077

TO: Anthony Winiiecki  
17864 Impala Path  
Lakeville, Minnesota 55044

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 Anthony Winiiecki ("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 8, 1994. 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 8, 1994.
  - b. On June 30, 2012, Respondent's Professional Engineer license in the State of Minnesota expired.
  - c. Respondent reinstated his Minnesota Professional Engineer license on March 1, 2013. Respondent's license status is current with an expiration date of June 30, 2014.
  - d. Respondent's Minnesota Professional Engineer license expired from July 1, 2012 to March 1, 2013.
  - e. During the period his license was expired, from July 1, 2012 to March 1, 2013, Respondent was employed as a traffic engineer by the Scott County, Minnesota Highway Department. Respondent is still employed in that capacity by Scott County.
  - f. In an email dated February 27, 2013, from Respondent to Andrea Barker, Board staff member, regarding the reinstatement of his Professional Engineer license, Respondent used the title block of "Anthony J. Winiecki, PE, PTOE, Traffic Division Engineer."
  - g. With his letter to the Board dated May 17, 2013, Respondent included a copy of his business card that was in effect during the expiration period, July 1, 2012 to March 1, 2013. The card contains a "Scott" heading and the address of the Scott County Highway Department. The business card also states: "Anthony J. Winiecki, PE, PTOE, Traffic Engineer." Respondent does

not recall distributing his business card to anyone during the expiration period of his Professional Engineer license.

h. In this same letter dated May 17, 2013, Respondent stated that a signature block used on his select emails from July 1, 2012 to March 1, 2013 was "Anthony J. Winiacki, PE, PTOE, Traffic Division Engineer." With this letter, Respondent enclosed copies of all such emails he has on record for the expiration period of his Professional Engineer license.

i. In this same letter dated May 17, 2013, Respondent stated that his signature block used on his letters from July 1, 2012 to March 1, 2013 was "Anthony J. Winiacki, PE, PTOE, Traffic Division Engineer." With this letter, Respondent enclosed copies of all letters and documents he has on record for the expiration period of his Professional Engineer license.

j. With this same letter dated May 17, 2013, Respondent provided a list of eleven (11) Minnesota projects that he worked on during the expiration period from July 1, 2012 to March 1, 2013 and a position description for the position he held during the expiration period of his Professional Engineer license, and still holds, with Scott County, Minnesota.

k. Respondent requested a conference with the Committee. The conference was held on June 13, 2013. During the conference, Respondent stated that he renewed his Minnesota Professional Engineer license after he received a second notice from the Board that he had not renewed his Minnesota Professional Engineer license. Respondent stated he did not recall receiving the first renewal notice from the Board. Respondent stated the lapse was

unintentional as he was not aware that his license had lapsed.

I. Respondent stated at the conference that he did not sign any plan sheets or anything that had his registration number attached during the expiration period from July 1, 2012, to March 1, 2013. Respondent said he made a list of documents that had his signatures on them but no license number. Respondent mentioned that there were five (5) reports he signed as having been reviewed as a Scott County representative but that they did not include his Minnesota Professional Engineer license, nor the designation P.E.

m. Copies of emails, correspondence, reports and documents that Respondent has on record for the expiration period of his Professional Engineer license, which were submitted by Respondent to the Committee, indicate that in performing his duties as Traffic Engineer for Scott County, Respondent was: (1) exercising his professional judgment relating to public projects wherein the public welfare or the safeguarding of life, health or property is concerned, and (2) performing services for Scott County which required the application of his education and training as a professional engineer, all within the meaning of Minnesota Statutes, section 326.02, subdivision 3. Further, Respondent signed several documents on behalf of the Scott County Engineer, in the signature block for the Scott County Engineer.

n. At the conference on June 13, 2013, Respondent confirmed that the position description included with his letter dated May 17, 2013, is the official Scott County description for the traffic engineer position he held during the expiration period of his Professional Engineer license. In the Scott County

position description, under MINIMUM QUALIFICATIONS, it states that registration as a Professional Engineer is required for the Design and Traffic Engineer. Furthermore, under the heading "INCUMBENTS ASSIGNED TO TRAFFIC RESPONSIBLE FOR", the position description states: "Registration as a PE is required for this position."

o. Based upon the ESSENTIAL DUTIES as the Traffic Engineer for Scott County, as defined in the Scott County official position description, Respondent practiced "professional engineering," within the meaning of Minnesota Statutes section 326.02, subdivision 3, when he held the position of traffic engineer for Scott County, Minnesota without a current Minnesota Professional Engineer license from July 1, 2012 to March 1, 2013.

p. Respondent has cooperated fully with the Committee in its investigation of this matter. At the conference, Respondent replied that he has taken corrective measures for future renewal periods.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02 subdivisions 1 and 3, and Minnesota Statutes section 326.03, subdivision 1 (2012) 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 in Minnesota without a license, within the meaning of Minnesota Statutes section 326.02, subdivision 1, and practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3 (2012), in Minnesota during the lapse of his Minnesota Professional Engineer license, between July 1, 2012 and March 1, 2013.

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 Five Thousand Dollars (\$5,000.00), to be paid according to the following schedule: Respondent shall submit a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) by check or money order to the Board within sixty (60) days of the Board's approval of this Stipulation and Order and Respondent shall submit a payment of Two Thousand Five Hundred Dollars (\$2,500.00) by cashier's check or money order to the Board within six (6) months of the Board's approval of this Stipulation and Order.

c. Respondent shall cease and desist from violating any laws, rules or orders entrusted to enforcement by the Board.

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 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

Anthony Winiiecki  
Anthony Winiiecki

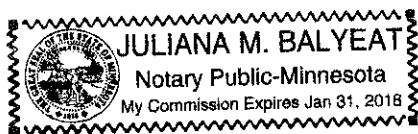
Dated: 9/30, 20 13

SUBSCRIBED and sworn to before me on  
this the 30th day of SEPTEMBER, 20 13.

Juliana Balyeat  
(Notary Public)

My Commission Expires:

1-31-18



COMPLAINT COMMITTEE

Bruce Johnson

Bruce Johnson, PG  
Committee Chair

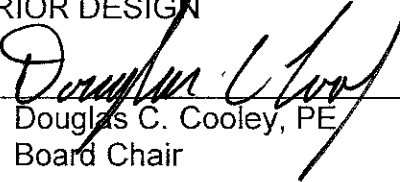
Dated: 10/10/13, 20

**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 11 day of OCTOBER, 2013.

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

By: \_\_\_\_\_

  
Douglas C. Cooley, PE  
Board Chair

AFFIDAVIT OF SERVICE BY MAIL

**RE: In the matter of Anthony Winiecki**  
**PROFESSIONAL ENGINEER**  
**License Number 23128**

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 14<sup>th</sup> day of OCTOBER, 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. Anthony Winiecki  
 17864 Impala Path  
 Lakeville, Minnesota 55044

**CERTIFIED MAIL**  
**Return Receipt Requested**  
**7012 0470 0000 4959 0172**

*Lynette DuFresne*  
 \_\_\_\_\_  
 Lynette DuFresne

Subscribed and sworn to before me on this the 14<sup>th</sup> day of October, 2013.

*Beverly A. Carey*  
 \_\_\_\_\_  
 (Notary Public)

