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

In the matter of Michael Lyner
ARCHITECT
License Number 15794

STIPULATION AND ORDER

Board File No. 2014-0011

TO: Mr. Michael Lyner
1220 Marshall Street North East
Minneapolis, Minnesota 55413

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 Michael Lyner ("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 an Architect license by the Board on January 4, 1983. 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 an Architect in the State of Minnesota on January 4, 1983.

b. On July 1, 2008, Respondent's Minnesota Architect license expired.

c. Respondent reinstated his Minnesota Architect license on April 4, 2013. As of the date of this order, Respondent's Minnesota Architect license is current with an expiration date of June 30, 2014.

d. Respondent's Minnesota Architect license lapsed from July 1, 2008 to April 4, 2013.

e. Respondent held himself out as a Minnesota Architect on the website sites www.LinkedIn and www.rsparch.com/People/Principals/Lyner.html. In a letter to the Board's Investigator dated November 6, 2013, Respondent's attorney stated: "Mr Lyner did, however, inadvertently leave the words "registered Architect with almost 30 years of professional experience" on the LinkedIn, and "an architect drawn to data" on his division's website."

f. In this same letter dated November 6, 2013, Respondent's attorney stated: "Once Mr. Lyner was informed of his licensure lapse he removed the AIA notation from the LinkedIn website. Mr. Lyner has been unable to determine how to retrieve the history from LinkedIn, but does not dispute that his LinkedIn listing likely referred to him as an architect, at least during the timeframe of July 1, 2008 to October 9, 2010."

g. In this same letter dated November 6, 2013, Respondent's attorney stated: "Mr. Lyner indicates that the RSP websites have changed several times

over the past few years, and he is unable to attain history screen shots. However, he does not dispute the Board's statements about his listing."

h. In this same letter dated November 6, 2013, Respondent's attorney stated: "He removed the notation AIA as soon as he realized this infraction."

i. In this same letter dated November 6, 2013, Respondent's attorney stated that the signature block(s) used on Respondent's emails were: "From July 1, 2008 to October 9, 2010 (when I realized I could not have the AIA notation: RSP i_SPACE, analyze_strategize_optimize, Michael. R. Lyner, AIA LEED-AP, Principal, 1220 Marshall St NE, Minneapolis, MN 55413."

j. In this same letter dated November 6, 2013, Respondent's attorney provided a copy of the letterhead used by RSP Architects, which lists "Michael R. Lyner, AIA" in connection with a Minneapolis, Minnesota address. Respondent's attorney stated: "RSP Architects' letterhead was not changed during Mr. Lyner's lapse. A copy is attached as Attachment 2-a. However he was not using that letterhead in his client communications. He was instead using RSP i SPACE letterhead without any pre-printed Principals listed."

k. In this same letter dated November 6, 2013, Respondent's attorney provided a copy of Respondent's business card used during the lapse. In connection with his name, Respondent used the title of "AIA" on his business cards for 'RSP i_space' with a Minnesota address. Respondent's attorney further stated: "Mr. Lyner's business card has not changed since the end of 2007."

l. The Committee determined that based on the evidence presented, the lapse of his Minnesota Architect's license was due to the Respondent's personal extenuating circumstances.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1 and 2 (2012), and are sufficient grounds for the action specified below. Specifically, it is alleged that Respondent held himself out to the public as an architect by (a) using the title of Architect and (b) using or advertising the title of AIA (American Institute of Architects member), a title tending to convey or give the impression that he was licensed as an architect, in conjunction with his name and a Minnesota business address during the time when Respondent's Minnesota architect license had lapsed, July 1, 2008 to April 4, 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 Hundred Dollars ($500.00). Respondent shall submit a civil penalty of Five Hundred Dollars ($500.00) by check or money order to the Board within sixty (60) days 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 architecture.

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 is represented by Attorney Jeffrey W. Coleman.

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

Michael Lyner

Dated: 3 June, 2014

Michael Lyner

SUBSCRIBED and sworn to before me on
this the 3RD day of JUNE, 2014.

(Notary Public)

My Commission Expires:

1-31-15

SHARON R. LEONARD
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2015

COMPLAINT COMMITTEE

Dated: 7/22, 2014

~~Bruce Johnson, PG~~ DAVID KRECH
Committee Chair

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 7th day of August, 2014.

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

By: _____
Board Chair

AFFIDAVIT OF SERVICE BY MAIL

RE: In the matter of Michael Lyner, Board File No. 2014-0011
Architect
License Number 15794

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 8th day of August, 2014, 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. Jeffrey W. Coleman, PE, FACI
The Coleman Law Firm, LLC
800 Washington Avenue North Suite 620
Minneapolis, Minnesota 55401

CERTIFIED MAIL
Return Receipt Requested
7012 0470 0000 4959 0646

Lynette DuFresne
Lynette DuFresne

Subscribed and sworn to before me on this the 8th day of August, 2014.

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

Victoria E Oehrlein
(Notary Public)