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

In the matter of Susan G. Miller
PROFESSIONAL ENGINEER
License Number 24731

STIPULATION AND ORDER

Board File No. 2013-0080

TO: Ms. Susan G. Miller
17684 710th Avenue
Albert Lea, Minnesota 56007

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 Susan G. Miller ("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 July 18, 1996. 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 July 18, 1996.

b. On July 1, 2012, Respondent's Minnesota Professional Engineer license in the State of Minnesota expired.

c. Respondent reinstated her Minnesota Professional Engineer license on February 26, 2013. Respondent's license status is current with an expiration date of June 30, 2014.

d. Respondent's Minnesota Professional Engineer license lapsed from July 1, 2012 to February 26, 2013.

e. Respondent delivered her renewal application in person on February 26, 2013 and met with Lynette DuFresne, Board Investigator. Respondent self-reported that she practiced and held herself out during the expiration period of her Minnesota Professional Engineer license. Respondent stated that she did not know that her license had lapsed until she received the second notice post card from the Board on or around 2/26/2013. Until she received the notice from the Board, Respondent believed that her license was current and she continued to provide service to Freeborn County as the County Engineer. Respondent admitted to Investigator DuFresne, that she had signed two sets of plans as the County Engineer during the lapse of her Professional Engineer license.

f. Attached to Respondent's Application for License/Certificate Reinstatement through 6/30/2014, was a letter dated February 26, 2013 which

stated: "Believing I had renewed my license and was current, I continued to provide service to Freeborn County as their County Engineer." Respondent provided a list of projects she had been involved with during the license lapse period.

g. With a letter dated March 26, 2013, Respondent enclosed a copy of her business card that was in effect during the license lapse period, July 1, 2012 to February 26, 2013. The card has a "Freeborn County Minnesota" heading and a Minnesota business address. Respondent's business card also states: "Susan G. Miller, P.E., County Engineer."

h. In this same letter dated March 26, 2013, Respondent stated that the signature block used by her on her emails during the license lapse period of July 1, 2012 to February 26, 2013 was: "Susan G. Miller, P.E, Freeborn County Engineer."

i. In a letter dated May 17, 2013, Respondent stated that the signature block used by her on her letters from July 1, 2012 to February 26, 2013 was: "Susan G. Miller, P.E., Freeborn County Engineer."

j. In this same letter dated May 17, 2013, Respondent provided a variety of documents she signed during the license lapse period that required the signature of the County Engineer. The documents enclosed were applications, permits, and reports used for planning, funding, observation and administration purposes.

k. Based upon the ESSENTIAL DUTIES as the County Engineer for Freeborn County, as defined in the Freeborn County official position description,

Respondent practiced "professional engineering," within the meaning of Minnesota Statutes section 326.02, subdivision 3, when she held the position of County Engineer for Freeborn County, Minnesota without a current Minnesota Professional Engineer license from July 1, 2012 to February 26, 2013.

l. In this same Freeborn County position description, under Licensing Requirements, it states: "Registration as a Professional Engineer."

m. Additionally, in this same Freeborn County position description, under Distinguishing Characteristics, it states: "The County Engineer is a stand alone classification which is distinguished from other classes by its responsibility for performing administrative and professional engineering work activities and directing the personnel, budgets, construction programs, and State aid requirements of the County highway department."

n. Respondent provided two plans that were signed by her after July 1, 2012 as the County Engineer. The two plans were signed and certified by another Minnesota Professional Engineer as the 'Design Engineer.'

o. Respondent was extremely cooperative and forthcoming with the Board, her employer and associates. Respondent provided copies of various letters she promptly gave to her employer, Freeborn County, and the Minnesota Department of Transportation notifying them of her lapsed license.

p. In a May 17, 2013 letter to Investigator DuFresne, Respondent states that her failure to renew her license "was not intentional, fraudulent, dishonest or with criminal intent."

q. Immediately upon discovery of the lapse of her license,

Respondent took significant corrective actions including notifying state agencies, county agencies, and peers.

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 herself 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 her Minnesota Professional Engineer license, between July 1, 2012 and February 26, 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 Two Thousand Five Hundred Dollars ($2,500.00). 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.

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 she 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

Susan G. Miller

Dated: 18 DECEMBER, 2013

SUBSCRIBED and sworn to before me on this the 18 day of December, 2013.

SANDRA JEAN TOMSCHIN
NOTARY PUBLIC - MINNESOTA
My Commission Expires January 31, 2017

(Notary Public)

My Commission Expires:

1-31-2017

COMPLAINT COMMITTEE

Bruce Johnson, PG
Committee Chair

Dated: 1/14, 2014

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 14 day of FEBRUARY, 2014.

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 Susan G. Miller
Professional Engineer
License Number 24731

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 24th day of February, 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:

Ms. Susan G. Miller
17684 710th Avenue
Albert Lea, Minnesota 56007

CERTIFIED MAIL
Return Receipt Requested
7012 0470 0000 4959 0356

Lynette DuFresne

Subscribed and sworn to before me on
this the 24th day of February, 2014.

Beverly A. Carey
(Notary Public)

BEVERLY A. CAREY
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31 2015