

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

**In the matter of Peter Her
PROFESSIONAL ENGINEER
License Number 42694**

STIPULATION AND ORDER

Board File No. 2017-0013

TO: Peter Her
5540 Schutta Road
Shoreview, Minnesota 55126

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2014) and Minnesota Statutes section 326.111 (2014) 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 Peter Her ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that these matters may now be resolved by this Stipulation and Order.

STIPULATION

It is hereby stipulated and agreed by Respondent and the Committee that without trial or adjudication of any issue of fact or law and without any evidence or admission by any party with respect to any such issue:

1. Jurisdiction. Respondent was first issued a Professional Engineer license by the Board on June 25, 2003. 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 June 25, 2003.

b. On July 1, 2016, Respondent's Minnesota Professional Engineer license expired.

c. Respondent reinstated his Minnesota Professional Engineer license on August 5, 2016. Respondent's license status is current with an expiration date of June 30, 2018.

d. Respondent's Minnesota Professional Engineer license lapsed from July 1, 2016 to August 5, 2016.

e. Respondent called the Board office on August 5, 2016, and, in a telephone conversation with the Board Investigator, stated he was calling to self-report that his license had lapsed and that he had practiced professional engineering during the lapse of his license.

f. In a letter to the Board dated September 7, 2016, Respondent stated: "After the Tennessen warning was read, I told her I never saw the renewal notice and had unintentionally let my PE licensed expired. I also told her I have signed off on two documents or project layouts and these two documents are still in my possession and asked her should I resign them or will my signatures still be good since I just renewed my PE license prior to calling the Board....[sic]...."

g. In this same letter dated September 7, 2016, Respondent provided

a listing of all the Minnesota projects that he worked on from July 1, 2016 to August 5, 2016.

h. With this same letter dated September 7, 2016, Respondent attached copies of the two (2) Minnesota project layouts he signed and certified as a Minnesota Professional Engineer between July 1, 2016 and August 5, 2016. Respondent signed and certified documents on the following Minnesota projects:

h.1 S.P. 2750-088, TH 169, A. J. T9W067, Champlin, Minnesota on July 5, 2016.

h.2 S.P. 1985-149, T.H. 494, A. J. T9W394, South Saint Paul, Minnesota on July 28, 2016.

i. Respondent held himself out as a Professional Engineer in the State of Minnesota, within meaning of Minnesota Statutes section 326.02, subdivision 1 (2014), and practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3 (2014), during the lapse of his Minnesota Professional Engineer license, when he signed and certified the documents for the Minnesota projects identified in paragraphs 2.h.1, and 2.h.2 above.

j. With this same letter dated September 7, 2016, Respondent provided a position description for the employment position he held during the expiration period of his Professional Engineer license, and still holds, with Mn/DOT, an agency of the State of Minnesota.

k. In this Mn/DOT, 'Senior Engineer' position description, under 'Required Certifications, Licenses, and Registrations' section, it states:

"REQUIRED: (minimum certifications, etc., required at the time of hire) This position requires registration as a professional engineer with commensurate background of education and experience."

I. Respondent practiced "professional engineering," within the meaning of Minnesota Statutes section 326.02, subdivision 3, without a license, when he held the position of 'Senior Engineer' for Mn/DOT, an agency of the State of Minnesota, without a current Minnesota Professional Engineer license from July 1, 2016 to August 5, 2016.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivision 1 and subdivision 3 (2014) and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent (a) held himself out as a Professional Engineer, within the meaning of Minnesota Statutes section 326.02, subdivision 1 (2014), by using the title of "Professional Engineer" between July 1, 2016 and August 5, 2016, in connection with Minnesota projects he worked on as a Mn/DOT employee, and (b) practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3 (2014), (1) on drawings/layouts he signed and certified on two (2) projects located in Minnesota, and (2) in performing activities related to his current employment position with Mn/DOT as a 'Senior Engineer,' which requires licensure as a Professional Engineer, during the lapse of his Minnesota Professional Engineer license, between July 1, 2016, to August 5, 2016,

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 Dollars (\$2,000.00). Respondent shall submit a civil penalty of Two Thousand Dollars (\$2,000.00) 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. 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 (2014), 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.

6. Collection. Pursuant to Minnesota Statutes section 16D.17 (2014), after ninety (90) days of the Board's approval of this Stipulation and Order, the Board may file and enforce any unpaid portion of the civil penalty imposed by this Order as a judgment against the Respondent in district court without further notice or additional proceedings.

7. 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 (2014), 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.

8. 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.

9. 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.

10. 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 (2014). 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 (2014). 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.

11. 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.

12. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

13. 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.

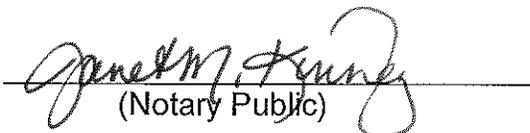
RESPONDENT



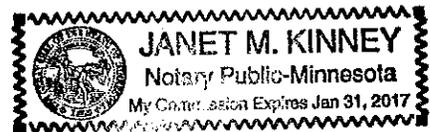
Peter Her, PE

Dated: 11/21, 2016

SUBSCRIBED and sworn to before me on
this the 21st day of November, 2016.



(Notary Public)



My Commission Expires:

January 31, 2017

COMPLAINT COMMITTEE



James N. Grube, P.E.
Committee Chair

Dated: Dec. 1, 2016

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 1st day of December, 2016.

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

By: 
Peter G. Miller, PSS
Board Chair

