

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

**In the Matter of
Benjamin S. Allen, Unlicensed**

**SETTLEMENT AGREEMENT
AND
CEASE AND DESIST ORDER**

Board File No. 2017-0053

TO: Benjamin S. Allen
ARM Group Inc.
1120 W Governor Road
Hershey, PA 17033-0797

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2016) and Minnesota Statutes section 326.111 (2016) to review complaints concerning the unauthorized practice of architecture, professional engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Benjamin S. Allen ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that these matters may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

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. Pursuant to Minnesota Statutes section 326.111, subdivision

3 (2016), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from using the title Professional Engineer and to cease and desist from practicing Geoscience in the State of Minnesota. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement and Cease and Desist Order.

2. Facts. This Settlement Agreement is based upon the following facts:
 - a. Respondent is not currently and never has been licensed by The Board as a Professional Engineer, Geologist, or Soil Scientist in the State of Minnesota.
 - b. On January 25, 2017 Respondent held himself out as a licensed Professional Engineer in Minnesota by signing four Geotechnical Investigation Reports as "Benjamin S. Allen, P.E." for the reports in the following locations: Zumbrota, Webster, New Germany, and in the Town of Waconia.
 - c. In the response dated June 26, 2017, Respondent showed that he practiced Geoscience at four different Minnesota locations (Zumbrota, Webster, New Germany, and the Town of Waconia). Respondent provided Geotechnical Investigation Reports for each location that showed activities that are found under reporting standards for Geoscience and require a Professional Geologist.
 - d. Respondent interpreted soil studies at each Minnesota location (Zumbrota, Webster, New Germany, and the Town of Waconia) by producing soil maps which require a Professional Soil Scientist.

The title block on the soil map specifically read:

"This drawing, its contents, and each component of this drawing are the property of and proprietary to ARM Group Inc. and shall not be reproduced or used in any manner except for the purpose identified on the Title Block, and only by or on behalf of this client for the identified project unless otherwise authorized by the express, written consent of ARM Group Inc."

- e. In the response dated June 26, 2017 Respondent stated that he does not work under a Minnesota licensed Professional Engineer, Professional Geologist, or a Professional Soil Scientist; nor does his firm contract with a licensed professional to perform the work he signed.
- f. Respondent is licensed as a Professional Engineer in Pennsylvania and New Jersey.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02 Subdivision 1, Subdivision 3, and Subdivision 3a (2016) and are sufficient grounds for the action specified below. Specifically, it is alleged that Benjamin S. Allen unintentionally held himself out as a Professional Engineer, and practiced Geoscience without a Minnesota License at the following Minnesota locations: Zumbrota, Webster, New Germany, and the town of Waconia.

4. Enforcement Action. Respondent and the Committee agree that the Board

may issue an Order in accordance with the following terms:

- a) Cease and Desist Order. Respondent shall cease and desist from holding out as a Professional Engineer and cease and desist from practicing Geoscience in Minnesota until such time as he becomes licensed as a Professional Engineer, Professional Geologist, or Professional Soil Scientist in the State of Minnesota.
- b) Civil Penalty. Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000.00) to the Board. Respondent shall pay the civil penalty by check to the Board within sixty (60) days of the date of the Board's approval of this Settlement Agreement and Cease and Desist Order.

5. Judicial Relief. If the Respondent violates paragraph 4 above, a district court of this state may, upon application of the Committee, enter an Order enjoining Respondent from such unauthorized practices, ordering Respondent to show cause why the required civil penalty has not been paid, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

6. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, 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 and to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2016). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order requiring the action

specified in paragraph 4 herein. Respondent waives the right to any judicial review of this Settlement Agreement and Cease and Desist Order or the attached Board Order by appeal, writ or certiorari, or otherwise.

7. Collection. Pursuant to Minnesota Statutes section 16D.17 (2016), after ninety (90) days of the Board's approval of this Settlement Agreement and Cease and Desist Order, the Board may file and enforce any unpaid portion of the civil penalty imposed by this Order as a judgment against Respondent in district court without further notice or additional proceedings.

8. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement and Cease and Desist Order, this Settlement Agreement shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2016), Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

9. Record. The Settlement Agreement, 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 Settlement Agreement.

10. Data Classification. Under the Minnesota Government Data Practices Act, this Settlement Agreement and Cease and Desist Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2016).

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 (2016). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Settlement Agreement and Cease and Desist 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.

11. 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 Settlement Agreement and which is not directly related to the specific facts and circumstances set forth herein.

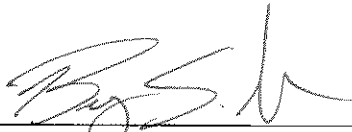
12. Entire Agreement. Respondent has read, understood, and agrees to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other 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 Settlement Agreement and Cease and Desist Order shall be served personally or by first class mail on Respondent. The Settlement Agreement shall be effective and deemed issued when it

is signed by the Chair of the Board.

RESPONDENT



Benjamin S. Allen

Dated: April 11, 2018

SUBSCRIBED and sworn to before me on
this the 11 day of April, 2018.



(Notary Public)

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Karen F. Albert, Notary Public
Derry Twp., Dauphin County
My Commission Expires Nov. 18, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

COMPLAINT COMMITTEE



Keith Rapp, PG
Committee Chair

DATED: MAY 10, 2018

ORDER

Upon consideration of the foregoing Settlement Agreement and Cease and Desist Order and based upon all the files, records, and proceedings herein, all terms of the Settlement Agreement and Cease and Desist Order are approved and adopted and hereby issued as an Order of this Board this the 17th day of May, 2018,
20_____.

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

By: 

Dennis R. Martenson, PE
Board Chair

