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

In the matter of
Kyle Brandt Koterba
Professional Engineer Number 48783

STIPULATION AND CONSENT ORDER
Board File No. 2021-0016

TO: Kyle Brandt Koterba
1712 12th St. S.
Moorhead, MN 56560

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Stat. §§ 214.10 and 326.111 (2020) 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 Kyle Brandt Koterba ("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 Consent 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 January 21, 2011. 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. On June 30, 2020, Respondent's Minnesota Professional Engineer license expired.

b. On November 25, 2020, Respondent renewed his Professional Engineer license.

c. On the November 25, 2020 renewal, Respondent reported that he had been practicing and holding out as a Professional Engineer in the State of Minnesota.

d. In Respondent's response letter to the Committee, Respondent stated: "during the course of preparing a license renewal application for another state, [he] became aware that [he] had inadvertently allowed [his] Minnesota Professional Engineers license to expire."

e. Respondent worked on seven Minnesota projects during his lapse, which were all for municipalities regarding wastewater treatment facilities or water towers/wells.

f. Upon learning of the expiration, Respondent notified his employer, Respondent's clients were notified of the situation and asked to return documents prepared during Respondent's lapse, and Respondent ceased any activity that could be construed as representing himself as a Professional Engineer in Minnesota, until his renewal was processed.

3. Violations. Respondent admits that the facts specified above constitute violations

of Minnesota Statutes section 326.02, subds. 1 and 3 (2020) and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent held himself out as a Professional Engineer in Minnesota without a license and practiced as a Professional Engineer in Minnesota without a license within the meaning of Minnesota Statutes section 326.02, subds. 1 and 3 (2020), during the lapse of his Professional Engineer license, between July 1, 2020, and November 25, 2020, by (a) using the title Professional Engineer and (b) practicing without a license in Minnesota.

4. Enforcement Action. Respondent and the Committee agree that the Board should issue a Consent Order in accordance with the following terms:

a. Censure and Reprimand. Respondent is censure and reprimanded.

b. Civil Penalty. Respondent shall pay to the Board a civil penalty of Two Thousand Dollars ($2,000). Respondent shall submit a civil penalty of $1,000 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Consent Order and a second civil penalty of $1,000 by check to the Board within 180 days of the Board's approval of this Stipulation and Consent Order.

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 Minn. Stat. ch. 14 (2020), 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 Minn. Stat. § 16D.17 (2020), ninety days after the Board's approval of this Stipulation and Consent 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. Pursuant to Minn. Stat. § 16D.13 (2020), ninety days after the Board's approval of this Stipulation and Consent Order, interest will begin to accrue on the penalty in accordance with that section.

7. Board Rejection of Stipulation and Consent Order. In the event the Board in its discretion does not approve this Stipulation and Consent Order or a lesser remedy than specified herein, this Stipulation and Consent 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 Minn. Stat. ch. 14 (2020), 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 Consent 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 Consent Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Stipulation.

10. Data Classification. Upon issuance by the Board, this Stipulation and Consent Order is classified as public data. Minn. Stat. §13.41, subd. 5 (2020). All documents in the record shall maintain the data classification to which they are entitled under Minn. Stat. ch. 13 (2020). Documents shall not become public merely because they are referenced herein. The Board will post a copy of this order on its website. The Board will also send a summary to the national discipline data bank pertaining to the practice of Professional 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 Respondent may choose to be represented by legal counsel in this matter. Respondent has either had the opportunity to consult with counsel or hereby knowingly waives legal representation.

13. Service. If approved by the Board, a copy of this Stipulation and Consent 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

Kyle Brandt Koterba, PE

Dated: 3/18, 2021

KRISTI NICHOLSON
Notary Public
State of North Dakota
My Commission Expires June 3, 2023

SUBSCRIBED and sworn to before me on this the 18th day of March, 2021.

(Notary Public)

My Commission Expires:

June 3, 2023

COMPLAINT COMMITTEE

Keith B. Rapp

Keith Rapp, PG
Committee Chair

Dated: 19 MAY, 2021

ORDER

Upon consideration of the foregoing Stipulation and Consent Order and based upon all the files, records, and proceedings herein, all terms of the Stipulation and Consent Order are approved and adopted and the enforcement action therein is issued as an Order of this Board this the 19TH day of MAY, 2021.

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

By: ~~Margaret S. Parsons, FAIA~~
Board Chair
PAUL A. VOGEL

STATE OF MINNESOTA
MINNESOTA BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECT, GEOSCIENCE, AND INTERIOR DESIGN
85 East 7th Place, Suite 160
St. Paul, MN 55101

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Title: **Kyle Koterba, Professional Engineer # 48783**
Board File Number 2021-0016

I, Dillon Lang, verifies by oath or affirmation that on the 19th day of May, 2021, at the City of Saint Paul, in the County of Ramsey, in the State of Minnesota, served the Stipulation and Order by depositing a true and correct copy in the United States mail, properly enveloped, with first class postage prepaid and addressed to the following named individual at the address indicated below.

Kyle Koterba
1712 12th St. S.
Moorhead, MN 56560

Dillon Lang