

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

In the Matter of
Frank Mileto, Unlicensed

SETTLEMENT AGREEMENT
AND
CEASE AND DESIST ORDER

Board File No. 2010-0039

TO: Frank Mileto
14 Beaver Brook Drive
Long Valley, New Jersey 07853

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2010) and Minnesota Statutes section 326.111 (2010) 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 Frank Mileto ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

State of Minnesota
Board of AELSLAGID

FEB 08 2011

Rec'd 2,000.00
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1. Jurisdiction. Pursuant to Minnesota Statutes section 326.111, subdivision 3 (2010), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from practicing professional engineering 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 in the State of Minnesota.

b. Respondent was licensed by the Board as an Architect in the State of Minnesota, license number 26239 on September 25, 1998. As of the date of this Settlement Agreement and Cease and Desist Order, Respondent's Architect license in Minnesota is current with an expiration date of June 30, 2012.

c. Respondent practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3, without a Professional Engineer license, by signing the electrical drawings for the Four Sea Chinese Restaurant, located in Park Rapids, Minnesota on July 1, 2009.

Four Sea Chinese Restaurant

1. On the E-1, 'Ceiling - Electrical Plan' drawing dated July 1, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Four Sea Chinese Restaurant, located in Park Rapids, Minnesota. A partial copy of Respondent's certification on

that date is attached hereto as Exhibit A. A true and correct set of drawings is located in the Board office.

d. In a letter to the Board dated February 4, 2010, Respondent states:

"I did not intend to violate the rules or practice engineering. If my efforts went beyond the scope of Architecture it certainly is not intentional and will cease immediately. I apologize if I misinterpreted the scope of work permitted in:

Minnesota Statutes 326.02, Sub 2 Practice of Architecture. Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications ...[sic]... A true and correct copy of the February 4, 2010 letter is attached as Exhibit B.

e. On the E-1 'Ceiling - Electrical Plan' drawing dated July 1, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the

Four Sea Chinese Restaurant, located in Park Rapids, Minnesota, made a note in the lower left hand corner that stated: " NOTE: MECHANICAL, PLUMBING AND ELECTRICAL DIAGRAMS SHOWN ON THESE PLANS ARE INTENDED TO PROVIDE THE MOST COMPLETE INFORMATION POSSIBLE. THEY ARE NOT TO BE CONSIDERED ENGINEERED PLANS. IF THE SERVICES OF A LICENSED ENGINEER ARE REQUIRED IT SHALL BE THE RESPONSIBILITY OF THE CLIENT TO COMMISSION SUCH SERVICES...[sic]... A partial copy of the drawing with the Respondent's notes on the E-1 'Ceiling - Electrical Plan' for the Four Sea Chinese Restaurant dated July 1, 2009 is attached hereto as Exhibit C. A true and correct set of drawings is located in the Board office.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1 and 3 (2010) and are sufficient grounds for the action specified below.

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 practicing professional engineering in Minnesota until such time as he becomes licensed as a professional engineer in the State of Minnesota.

b. Civil Penalty. Respondent shall pay a civil penalty of Two Thousand Dollars (\$2,000.00) to the Board. Respondent shall submit a cashier's check or money order for Two Thousand Dollars (\$2,000.00) to the Board within sixty (60) days of the date of the Board Order approving 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 (2010). 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. In accordance with Minnesota Statutes section 16D.17 (2010), 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 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 (2010), 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 (2010). 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 (2010). 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.

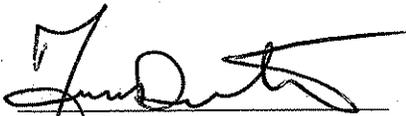
12. Entire Agreement. Respondent has read, understood, and agrees to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

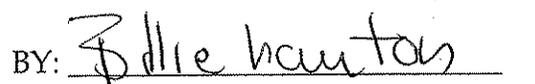
13. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

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

COMPLAINT COMMITTEE


Frank Mileto

BY: 
Billie Lawton, Public Member
Complaint Committee Chair

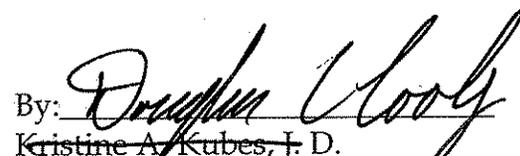
Dated: 3 FEB., 2011

Dated: 3-11, 2011

ORDER

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and hereby issued as an Order of this Board on this the 11 day of MARCH 2011.

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

By: 
Kristine A. Kubes, J. D.
Board Chair


S	SWITCH
S _{dim}	DIMMER DIMMER NUMBER "-X" AS NOTED
⌋	WALL LIGHT (LAMP: PAR30, 50 WATT EACH)
■	PENDENT LIGHT W/ LANTERN (LAMP: PAR30, 50 WATT EACH)
⊙	MOTOR AND DISCONNECT SWITCH
⊕	DUPLEX CONVENIENCE OUTLET
⊕ _{on}	DUPLEX CONVENIENCE OUTLET W/ GROUND FAULT INTERRUPTER
⊙	POWER OUTLET
⊙	JUNCTION BOX
□	DISCONNECT SWITCH

FRANK D. MILETO AIA ARCHITECT - P
WILLIAM A. GODSALL & ASSOCI
685 PASSAIC AV
NUTLEY, N.J. 07
(973) 667-1089 P
(973) 667-4704 F

14 BEAVER BROOK DRIVE
LONG VALLEY, N.J. 07853
(908) 876-9400 PHONE
(908) 876-9455 FAX



FOUR SEA CHINESE RESTAURANT
322 MAIN AVENUE SOUTH, #3
PARK RAPIDS, MINNESOTA 56470

- ELECTRICAL NOTES & REQUIREMENTS**
1. ALL WIRING TO COMPLY WITH N.E.C. 2005, AND LOCAL REQUIREMENTS.
 2. MINMUM CIRCUIT TO BE 20 AMP. BREAKER, (2) #12 IN 3/4" CONDUIT (+GND) UNLESS SHOWN OTHERWISE.
 3. WIRE SIZES BASED ON THW COPPER, A.W.G.
 4. PROVIDE DISCONNECTING MEANS AT ALL MOTOR LOADS.
 5. VERIFY ALL REQUIREMENTS FOR KITCHEN EQUIPMENT WITH EQUIPMENT SUPPLIER.
 6. MAKE ALL FINAL CONNECTIONS.
 7. MOUNT ALL ELECTRICAL DEVICES AND SWITCHES AS REQUIRED BY THE ADA AND THE LOCAL STATE BARRIER FREE RULES.
 8. FUSE ALL MOTORS AND MOTOR ASSEMBLIES IN A ACCORDANCE WITH THE N.E.C. 2005 AND MANUFACTURER'S RECOMMENDATIONS.
 9. BALANCE THE LOADS EVENLY BETWEEN THE PHASES OF THE SYSTEM. MINIMUM UNBALANCE OF 3%.
 10. MAINTAIN A MAXIMUM VOLTAGE DROP OF 5% THROUGHOUT THE ENTIRE SYSTEM.
 11. COORDINATE ALL WORK WITH ARCHITECTURAL, MECHANICAL, AND PLUMBING TRADES IN FIELD.
 12. VERIFY ALL EXISTING JOB CONDITIONS AND ACCOMMODATE AS REQUIRED FOR A COMPLETE INSTALLATION.

CEILING - ELECTRICAL PLAN
ELECTRICAL PANEL SCHEDULE

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.

FRANK D. MILETO
ARCHITECT

DATE: 11 JUL 2011 License # 20239

DWG. NO.
MN090601R
E-1
3 OF 4

EXHIBIT A



State of Minnesota
Board of AELSLAGID

FEB 08 2010

FRANK D. MILETO AIA

14 BEAVER BROOK DRIVE
(908) 876-9400 fax (908) 876- 9455

ARCHITECT-PROFESSIONAL PLANNER

LONG VALLEY, NEW JERSEY 07853
cell (908) 334-8667 fmileto@comcast.net

4 February 2010

Lynette DuFresne c/o
The Minnesota Board of Architecture
85 East 7th Place, Suite 160
St. Paul, MN 55101

Re: Frank D. Mileto, File No. 2010-0039 Park Rapids, MN

In response to your January 29, 2010 I offer the following information:

This office prepared plans consisting of drawings, S-1, A-1, E-1, P-1, for alterations at Four Sea Chinese Restaurant, Park Rapids, MN dated 6/26/ 2009. (Reduced size copies attached) for submission by my client to the Park Rapids, MN Building Department for review.

The client has been advised that Mechanical plans must be prepared, signed and sealed by licensed Minnesota Engineer and submitted to Park Rapids for review. A note to that effect is also provided on our plans.

We have and will continue to provide all information requested by the Park Rapids authorities to ensure compliance.

I have attached reduced size drawings for your review and will submit full size if you desire.

My primary efforts are to provide as complete a set of Construction Documents so as to protect health, safety, and welfare.

I did not intend to violate the rules or practice engineering.

If my efforts went beyond the scope of Architecture it certainly is not intentional and will cease immediately.

EXHIBIT B

I apologize if I misinterpreted the scope of work permitted in:

Minnesota Statutes 326.02, Sub 2 Practice Of Architecture Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications.

I have practiced Architecture for over 38 years. I take this incident very seriously.

If you or the Board wishes a personal interview to discuss this further, I will travel to Minnesota to meet at your convenience.

If the Board is contemplating disciplinary action I would respectfully request the opportunity to be heard.

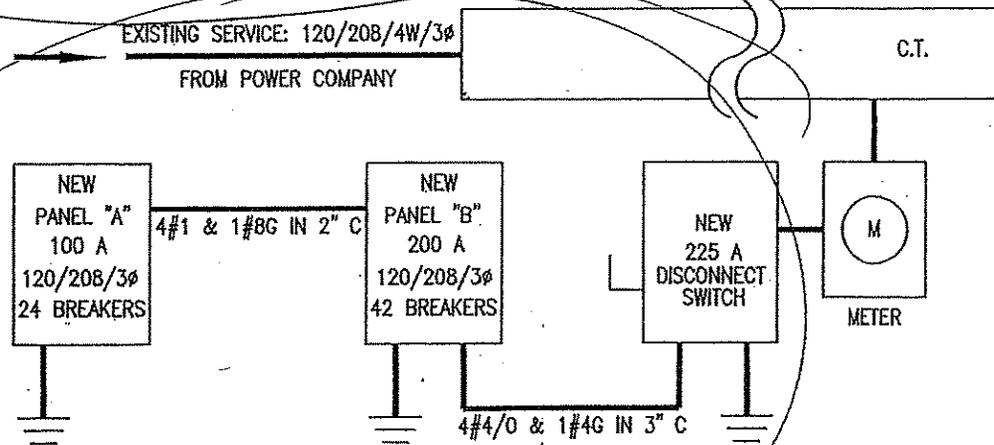
Respectfully Submitted,


Frank D. Mileto, AIA

				19	20	HVAC RTU GFI REC.	12	20/1	1000	
---	---	---	SPARE	21	22	SPARE	---	---	---	
---	---	---	SPARE	23	24	SPARE	---	---	---	
12,050	TOTAL LOAD = 24,250 W = 67.31 A @ 208V // 3 ϕ 4W							12,200		

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ELECTRICAL RISER DIAGRAM N.T.S.

EXHIBIT C

NOTE: MECHANICAL, PLUMBING AND ELECTRICAL DIAGRAMS SHOWN ON THESE PLANS ARE INTENDED TO PROVIDE THE MOST COMPLETE INFORMATION POSSIBLE. THEY ARE NOT TO BE CONSIDERED ENGINEERED PLANS. IF THE SERVICES OF A LICENSED ENGINEER ARE REQUIRED IT SHALL BE THE RESPONSIBILITY OF THE CLIENT TO OBTAIN SUCH SERVICES.

AFFIDAVIT OF SERVICE BY MAIL

RE: In the Matter of Frank Mileto, Unlicensed

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 14th day of MARCH, 2011, she served the attached **Settlement Agreement and Cease and Desist 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. Frank Mileto
14 Beaver Brook Drive
Long Valley, New Jersey 07853

CERTIFIED MAIL
Return Receipt Requested
7010 0780 0001 5886 2210


Lynette DuFresne

Subscribed and sworn to before me on
this the 14th day of March, 2011.


(Notary Public)

