

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

**In the matter of Kerry A. Moore
PROFESSIONAL ENGINEER
License Number 48663**

STIPULATION AND ORDER

Board File No. 2017-0047

TO: Mr. Kerry A. Moore
22414 West 58th Street
Shawnee, Kansas 66226

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 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 Kerry A. Moore ("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 December 29, 2010. 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 December 29, 2010.

b. Respondent renewed his Minnesota Professional Engineer license on August 9, 2016.

c. At the time of this Stipulation and Order, Respondent's Professional Engineer license in the State of Minnesota is current.

d. Respondent renewed his Minnesota Professional Engineer license on-line on August 9, 2016 at 12:43 P.M. At that time, Respondent affirmed he had thirty-two (32) Professional Development Hours and had affirmed he had met the ethics requirement.

e. In a letter dated September 23, 2016, the Board notified Respondent that he had been selected as part of the Board's continuing education audit.

f. In this same letter dated September 23, 2016, the Board notified Respondent that he must submit supporting documentation for a minimum of

twenty-four (24) Professional Development Hours, of which two (2) hours must have been in ethics, that had been earned between July 1, 2014 and June 30, 2016.

g. Respondent did submit supporting documentation for the continuing education audit on October 31, 2016. On the Continuing Education Reporting form, Respondent stated he had .5 (30 minutes) Professional Development Hours in ethics.

h. In a letter dated April 21, 2017, Respondent stated: "I completed the on-line, 2018 renewal application for my license on August 9, 2016 at approximately 12:43 p.m. Further, I incorrectly affirmed that at least two of the thirty-two hours were for ethics PDH. Please understand however, that I had completed numerous PDH hours over the applicable two-year period and truly believed my affirmation was accurate."

i. In this same letter dated April 21, 2017, Respondent stated: "Included in the HDR Alternative Deliver Project Management training there were topics discussed that could be considered ethics related:

Session 2 – Opportunity Identification & Evaluation

- Promulgating Statutes

Session 3 – Pre-Marketing

- Teaming Development

- Teaming Arrangement

Session 4 – Proposal & Project Development

- Risk Management
- Contract Negotiations

Session 5 – Project Execution

- Sub-consultant Management
- Influencing others

These hours were not designated as ethics PDH and were not reported as such, but I believe some did reference ethical issues. Based primarily on these presentations I truly believed I had more than 2 ethics PDH since July, 2014. When completing the Continuing Education Reporting Form in October, I realized my error, and that I had actually accrued 52.75 PDH for that timeframe. I did not attempt to hide the shortcoming, but truthfully reported 0.5 hours specifically designated as ethics training.”

j. Respondent submitted, and the Board accepted the “Engineering Ethics: Conflicts of Interest” course completed on April 12, 2017 for one (1) Professional Development Hour and the “Engineering Ethics: Misrepresentation” course completed on April 14, 2017 for one (1) Professional Development Hour, to fulfill the two (2) hours of ethics required for his license renewal. Respondent’s completion of these two one (1) hour courses cannot be counted

toward any continuing education requirements in the 2016-2018 renewal period.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.111, subdivisions 4 (a) (1) and 4 (a) (8) (2016), Minnesota Statutes 326.107, subdivisions 1 (a) and 1 (b) (2016) and Minnesota Rules 1805.0200, subpart 2 (2015) and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent: (a) submitted a materially false statement in connection with his on-line renewal application on August 9, 2016, by affirming he had two (2) professional development hours in ethics during the reporting period relevant to his license renewal; and (b) Respondent failed to provide supporting documentation to substantiate two (2) hours dedicated to professional ethics during the reporting period relevant to his license renewal and, therefore, failed to meet the continuing education requirements for renewal of his license on June 30, 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 Five Hundred Dollars (\$500.00). Respondent shall submit a civil penalty of Five Hundred Dollars (\$500.00) by check 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 (2016), 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 (2016), 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 (2016), 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 (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 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

Kerry A. Moore
Kerry A. Moore, PE

Dated: 6 July, 2017

SUBSCRIBED and sworn to before me on
this the 6th day of July, 2017.



Dustin Ester
(Notary Public)

My Commission Expires:

01/30/18

COMPLAINT COMMITTEE

R.T. Mathews
Robin T. Mathews, LS
Committee Chair

Dated: July 7, 2017

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 11th day of July,
2017.

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

By: Dennis R. Martenson
Dennis R. Martenson, PE
Board Chair

AFFIDAVIT OF SERVICE BY MAIL

RE: Kerry A. Moore; Professional Engineer License No. 48663

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Sara Datko, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 18th day of July, 2017, 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:

Kerry A. Moore
22414 West 58th Street
Shawnee, Kansas 66226


Sara Datko

CERTIFIED MAIL
Return Receipt Requested
7016 1370 0001 0084 8970

Subscribed and sworn to before me on
this the 18th day of July, 2017.



(Notary Public)

