

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

**In the matter of  
Thomas Malloy Everson  
Architect No. 54090**

**STIPULATION AND ORDER  
Board File No. 2020- 0065**

TO: Thomas Malloy Everson  
5301 Glenbrae Circle  
Edina MN 55436

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 Thomas Malloy Everson (“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 an Architect license by the Board on December 5, 2016. 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 employed with an architecture firm (“Employer”) from October 11, 2011 to July 23, 2019.
  - b. On April 9, 2015, Respondent signed a confidentiality agreement with Employer.
  - c. While with Employer, Respondent created a new business that was in direct competition with his Employer.
  - d. On July 23, 2019, Respondent was terminated from his employment.
  - e. On February 25, 2020, Respondent signed a settlement agreement in which he admitted to the following:
    - i. Working on a number of projects for his own personal gain (the “Side Projects”) without the Employer’s knowledge while employed at the Employer, including doing some of this work while in the Employer’s office during regular office hours.
    - ii. Using the Employer’s equipment and software licenses for the Side Projects without the Employers knowledge.
    - iii. Not disclosing the scope of his outside work and the use of the Employer’s resources for that work.
    - iv. One of the Side Projects was originally an Employer prospect for a new home, which the Respondent diverted to himself, and won, despite the Employer being invited to propose.
    - v. Using other employees (who were being paid to work fulltime for

the Employer) to perform work on the Side Projects without the Employer's knowledge.

- vi. Respondent used information defined as confidential information in the confidentiality agreement he signed, including drawings, and proposals for the Side Projects.

3. Violations. Respondent admits that the facts specified above constitute violations of Minn. Stat. § 326.111, subd. 4 (a)(1), (2), and (3) (2020), Minn. R. 1805.0200, subp. 1, 4(C), and (D), 1805.0300, subp. 1 and 2, and 1805.0900 (2017), and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent created a business in direct competition with his employer, while still being under the employ of that employer, and was soliciting work from his employer's potential clients while using his employer's intellectual property to complete projects for his personal clients.

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

- a. Civil Penalty. Respondent shall pay to the Board a civil penalty of Five Thousand Dollars (\$5,000). Respondent shall submit a civil penalty of \$5,000 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Order.
- b. Professional Development Hours. Respondent shall complete eight (8) ethics hours in addition to the regularly required ethics requirement under Minn. Stat. § 326.107 subd. 1 (c), and provide proof of completion of the hours to the Board, within 90 days of the Board's approval of this

Stipulation and Consent Order. These hours shall not count towards the hours required for Respondent's license renewal.

- c. Stayed Suspension. Respondent's Architect license is **SUSPENDED** until June 30, 2022, however, this suspension is **STAYED** so long as Respondent: (1) pays the civil penalty described in paragraph 4(a); and completes the professional development hours described in paragraph 4(b). If Respondent violates these conditions, the stay shall be automatically lifted and Respondent's license shall be suspended.

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 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 Order, interest will begin to accrue on the

penalty in accordance with that section.

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 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 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. Upon issuance by the Board, this Stipulation and Order is classified as public data. Minn. Stat. § 13.41, subd. 5 (2020). All other 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 Architecture.

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 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.

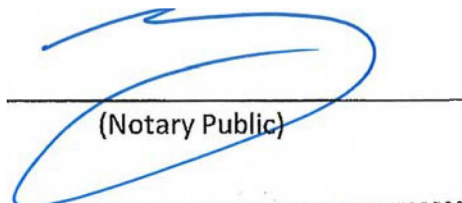
**RESPONDENT**



\_\_\_\_\_  
Thomas Malloy Everson, Architect

Dated: 03/23, 2021

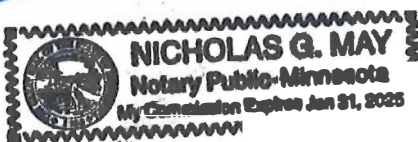
SUBSCRIBED and sworn to before me on  
this the 23<sup>rd</sup> day of March, 2021.



\_\_\_\_\_  
(Notary Public)

My Commission Expires:

2025



**COMPLAINT COMMITTEE**

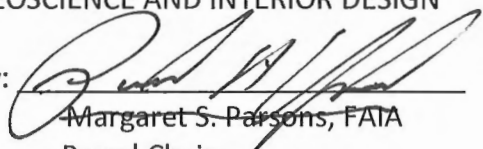
  
\_\_\_\_\_  
Keith Rapp, PG  
Committee Chair

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 19<sup>TH</sup> 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**

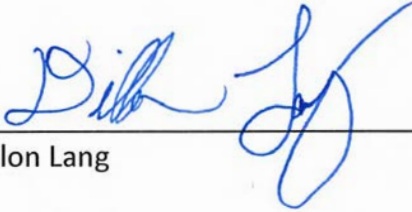
STATE OF MINNESOTA  
MINNESOTA BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE  
ARCHITECT, GEOSCIENCE, AND INTERIOR DESIGN  
85 East 7<sup>th</sup> Place, Suite 160  
St. Paul, MN 55101

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Title: Thomas Everson, Architect # 54090  
Board File Number 2020-0065

I, Dillon Lang, verifies by oath or affirmation that on the 19<sup>th</sup> 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.

David H. Redden  
Fabian May & Anderson, PLLP  
1625 Medical Arts Building  
825 Nicollet Mall  
Minneapolis, MN 55402

  
Dillon Lang