

BEFORE THE ARCHITECTURAL EXAMINING BOARD 1/14/98 (Date)
OF THE STATE OF IOWA

Arch Examining
Board / Commission
Kende J. Frey
Signature, Executive Officer

IN THE MATTER OF:)
)
CHARLES D. NOVAK) CASE NO. 97-13
REGISTRATION NO. 1599) SETTLEMENT AGREEMENT AND
) CONSENT ORDER
RESPONDENT)

The Iowa Architectural Examining Board (Board) and Charles D. Novak (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (1997) and 193B IAC 5.7:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 544A, and 272C (1997).
2. Respondent is a registered architect in Iowa.
3. Respondent does not contest the Statement of Charges to be filed with this Order.
4. Respondent has a right to a hearing on the charges, but waives this right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following contested case hearing.
5. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.
6. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
7. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (1997).
8. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1997). However, no action may be taken against Respondent for violations of these provisions without a hearing or waiver of hearing.

9. This Agreement is subject to approval by the Board:

(a) If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

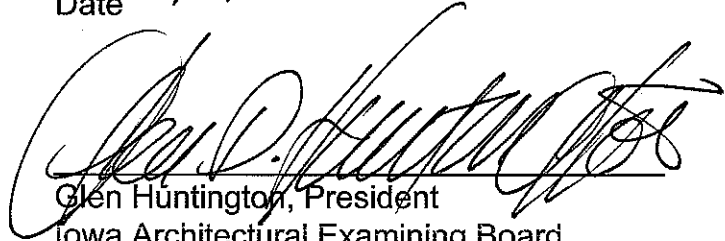
The Respondent's registration to practice architecture in Iowa is **SUSPENDED** until Respondent's license to practice architecture in Minnesota has been reinstated pursuant to the terms of the Stipulation and Order for Revocation of License attached to the Statement of Charges as Exhibit A. If Respondent's license to practice architecture in Minnesota is not reinstated by May, 1998, Respondent may file a written petition with this Board to demonstrate that he has successfully addressed the grounds upon which his license to practice in Minnesota was revoked, and it would be in the public interest to reinstate respondent's registration to practice architecture in Iowa.



Charles D. Novak, Respondent

12/28/97

Date



Glen Huntington, President
Iowa Architectural Examining Board

1/14/1998

Date

FILED 1/14/98 (Date)

BEFORE THE ARCHITECTURAL EXAMINING BOARD
OF THE STATE OF IOWA

Arch. Examining Board / Commission
Glenda Loving
Signature, Executive Officer

IN THE MATTER OF:)	
)	CASE NO. 97-13
CHARLES D. NOVAK)	
REGISTRATION NO. 1599)	STATEMENT OF CHARGES
)	
RESPONDENT)	

COMES NOW the complainant, Glenda Loving, and states:

1. The Complainant is the Executive Secretary of the Iowa Architectural Examining Board and files these charges solely in her official capacity.
2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C and 544A (1997).
3. On May 21, 1973, the Board issued Charles D. Novak, the Respondent, a certificate of registration as an architect, registration number 1599.
4. Respondent's architectural registration is in good standing until June 30, 1999.

Count 1

Respondent is charged with engaging in unethical conduct and practice harmful or detrimental to the public by improperly placing his seal on structural engineering plans not prepared by him or under his direct supervision and responsible charge, and by allowing an employee in his office to forge the signature of a structural engineer on plans submitted to building officials, in violation of Iowa Code sections 544A.13(3) and 544A.28 (1997) and 193B IAC 4.1(5).

Circumstances

1. Respondent's license to practice architecture in the State of Minnesota was revoked for one year on May 16, 1997, based on factual admissions described in a Stipulation and Order for Revocation of License signed by the Respondent on April 9, 1997, a true copy of which is attached to Exhibit A.
2. The charges in this action are based solely upon the factual admissions in Exhibit A, which constitute a violation of Iowa law.

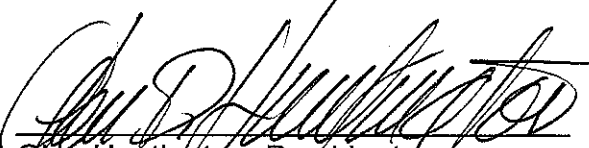
WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.



Glenda Loving, Executive Secretary

FINDING OF PROBABLE CAUSE

On _____, 1997, the Iowa Architectural Examining Board found probable cause to file this Statement of charges and to order a hearing be set in this case.



Glen Huntington, President

**BEFORE THE MINNESOTA STATE BOARD OF ARCHITECTURE,
ENGINEERING, LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE & INTERIOR DESIGN**

I, Doreen Frost, being first duly sworn, do hereby state:

1. I am the Investigator for the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience & Interior Design ("Board"), an agency of the government of the State of Minnesota, duly appointed under law and acting as such.

2. As Investigator for the Board, I exercise supervisory administrative control over records of the Board, including matters pertaining to licensing and the disciplinary actions of the Board.

3. The enclosed documents are true, and correct copies of the disciplinary records on file with the Board in this case involving **Charles Novak**.

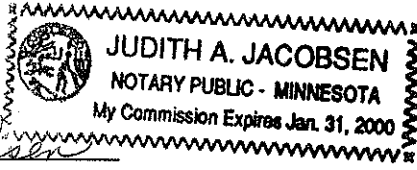
Affiant says nothing further.

Doreen Frost
Doreen Frost, Investigator

2/19/98
Date

Subscribed and Sworn to before me
this 19th day of February.

Judith A. Jacobsen
Notary Public


JUDITH A. JACOBSEN
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

95-075

STATE OF MINNESOTA

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

In the Matter of
Charles D. Novak, R.A.
License No. 8,687

**STIPULATION AND
ORDER FOR REVOCATION
OF LICENSE**

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (Board) is authorized pursuant to Minn. Stat. §§ 214.10 and 326.111, subd. 4 to review complaints against architects, engineers, land surveyors, landscape architects, geoscientists and interior designers, and to take disciplinary action when appropriate.

The Board received a complaint against Charles D. Novak, R.A. (Respondent). The Board's Complaint Committee (Committee) reviewed the information and referred it to the Attorney General for investigation. Following the investigation, the Committee held a conference with Respondent. The parties have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

1. Facts. This stipulation is based upon the following facts:

a. Respondent has been licensed to practice architecture in Minnesota since 1968. He is also licensed to practice architecture in a number of other states. Beginning in 1989, Respondent provided architectural services for the construction of a number of Pamida stores. Pamida wanted its stores to be uniform, and Respondent was given plans from a previously constructed Pamida store as a model. Respondent produced plans for two new Pamida stores in Wisconsin, making site-specific changes to the model plans as necessary.

b. In 1990, Respondent entered the plans for one of the Wisconsin Pamida stores into his computer-assisted design (CAD) system to use as a prototype. When designing future Pamida stores, Respondent would work from the prototype, making changes as necessary to meet site-specific requirements. Respondent entered into an arrangement with G.P., a licensed Minnesota structural engineer, to adapt the structural plans from the prototype to the local sites. Respondent would send G.P. the structural plans from the prototype and the local site and building code requirements, and G.P. would "redline" the plans, i.e., mark the necessary changes in handwriting on the plans. Respondent would then enter G.P.'s changes and other changes into his CAD system and produce a final set of plans. Respondent would provide a copy of the final structural plans to G.P. for review if G.P.'s changes were significant. G.P. would receive \$500.00 for each project.

c. In the manner described above, Respondent produced plans for approximately five additional Pamida stores outside Minnesota. Respondent signed the complete set of plans as architect. The structural plans were not signed by an engineer. The local building officials apparently did not require the signature of a structural engineer on the plans.

d. In the manner described above, Respondent produced plans for two Pamida stores in Minnesota, one in Aitkin and one in Princeton. Someone who was in Respondent's office and under his supervision forged or improperly placed G.P.'s signature on each page of the structural plans for the Princeton store (pages S-1 through S-4). The signatures were dated June 20, 1991. See, e.g., the copy of page S-1 attached hereto as Exhibit A. Respondent knew or should have known of the forgery. Respondent signed the architectural plans in his own name and submitted the complete set of plans, including the structural plans containing the forgeries of G.P.'s signature, to building officials and others.

e. On the title page of the plans for the Aitkin Pamida store, Respondent listed G.P. as a member of the design team, but neither G.P. nor any other structural engineer signed the plans. On May 6, 1992, Respondent signed each page of the structural plans in his

own name, certifying that they were prepared by him or under his supervision, although Respondent was not licensed to practice engineering and Respondent's involvement with the structural plans was limited to entering the prototype and GP's redlined changes into his CAD system. See, e.g., the copy of page S-1 of the plans attached hereto as Exhibit B. Respondent also signed the architectural plans and submitted the complete set of plans to building officials and others.

f. The Board received a complaint concerning this matter. In a June 7, 1996, letter to the Board from his attorney, Respondent stated that if he or one of his employees placed G.P.'s name on the documents, his office would have sought permission from G.P. Respondent further stated: "G.P. has acknowledged that he was the engineer of record and was responsible for preparing the structural plans." At a June 13, 1996, conference with the Board's Complaint Committee, Respondent claimed that sometimes he would take the final Pamida plans to G.P., who would sign off on them. At the conference, Respondent was informed that G.P. told the Board he would not have signed the plans. Respondent's attorney then stated that in deposition testimony in a lawsuit concerning this matter, G.P. "admitted and acknowledged that he signed a whole bunch of these drawings." Respondent stated that after the redlined changes were made, G.P. would sign the prints for the specific project.

g. Respondent did not have a transcript of G.P.'s deposition. The Attorney General's Office spent several months attempting to locate a transcript. In approximately November 1996, the Attorney General's Office obtained a transcript. The transcript showed that G.P. did not acknowledge that he was the engineer of record, did not acknowledge that he was responsible for preparing the structural plans, and did not acknowledge that he had signed any plans. To the contrary, G.P. testified that his services were limited to making site-specific changes to the prototype plans, that he had not prepared the prototype plans, and that he had never signed any Pamida plans. In January 1997, Respondent provided the Attorney General's Office with evidence that GP had signed structural plans for two projects in which Respondent acted as architect; these projects were not Pamida stores. Respondent's representations that

G.P. had signed Pamida store plans and that G.P. had acknowledged certain matters were false and caused unnecessary delay and expense in resolving this matter.

2. Violations. Respondent admits that the facts and conduct specified above constituted violations of Minn. Stat. §§ 326.111, subd. 4(a)(1), (2), (3), and (9), 326.12, subd. 3, and 326.15 (1996), and Minn. R. 1800.4200, subp. 3 and 1805.0200, subpts. 1 and 4.C, D, and E (1995) and are a sufficient basis for the disciplinary action specified below.

3. Disciplinary Action. Respondent and the Committee agree and recommend that the Board issue an order in accordance with the following terms:

a. Revocation of License. Effective the date of the order, Respondent's license to practice architecture in the State of Minnesota is revoked. Respondent shall not engage in any act in Minnesota which constitutes the practice of architecture as defined in Minn. Stat. § 326.02, subd. 3 and shall not imply to former clients or other persons by words or conduct that Respondent is licensed to practice architecture in Minnesota.

b. Cost Reimbursement. Respondent shall pay to the Board \$2,000.00 within 30 days after the date of the order to partially reimburse the Attorney General's costs since the June 1996 conference on the ground that Respondent's claims to the Board were not substantially justified within the meaning of Minn. Stat. § 326.111, subd. 6(b). If Respondent does not comply with this subparagraph, this order may be docketed and enforced as a civil judgment in any district court of this state.

c. Application for Relicensure. Respondent may not reapply for relicensure for a period of at least one year after the date of this order. The Board may reinstate Respondent's license if the Board finds that he has complied with this order and has successfully addressed the causes of his misconduct.

4. Attendance at Conference. Respondent and his attorney, R.M. Bracewell, attended a conference with the Committee on June 13, 1996. The following Committee members attended the conference: James Giefer, P.E.; Lawrence G. Greenberg, public member; Terrance J. Schlink, A.I.A., C.I.D.; John E. Swenson, L.S., Committee Chair; and

Todd Wichman, A.S.L.A. Assistant Attorney General Thomas C. Vasaly represented the Committee.

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 and to dispute the appropriateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an order imposing either the discipline specified herein or a less severe discipline. Respondent waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

6. Board Rejection of Stipulation and Order. If the Board does not approve this stipulation, it 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 and section 150A.08, 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 stipulation and the record.

7. Record. This 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.

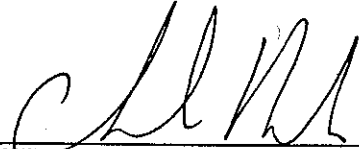
8. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein.

9. Entire Agreement. Respondent has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

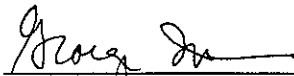
10. Service. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Respondent or his attorney. The order shall be effective and deemed issued when it is signed by the presiding officer of the Board.

RESPONDENT

COMPLAINT COMMITTEE



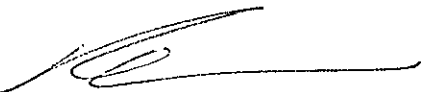
CHARLES D. NOVAK, R.A.

By: 

GEORGE IWAN
Executive Secretary

Dated: APRIL 9, 1997

Dated: 4/15, 1997



R.M. BRACEWELL
Attorney for Respondent



THOMAS C. VASALY
Assistant Attorney General
Attorney for Complaint Committee

Dated: 4/11/97, 1997

Dated: April 14, 1997

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records and proceedings herein, Respondent's license to practice architecture in the State of Minnesota, is revoked for one year effective immediately, and all other terms of the stipulation are approved and adopted this 16th day of MAY, 1997.

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

By: R. Richard Gauger, P.E.
R. RICHARD GAUGER, P.E.
Chair

archso.ai2
April 2, 1997

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WITH TWO #5 BARS ABOVE DOORS AND WINDOWS UP TO 4 FEET
WITH TWO #4 T.&B. BARS FOR OPENINGS UP TO 8 FEET WIDE OR
N ON THE DRAWINGS.

I HEREBY CERTIFY THAT THESE
CONSTRUCTION DOCUMENTS WERE
PREPARED BY ME, OR UNDER MY
DIRECT SUPERVISION, AND THAT I
AM A DULY REGISTERED PROFESSIONAL
ENGINEER IN THE STATE OF MINNESOTA.

DATE: 6/25/97

REG. NO. 7090

STRUCTURAL ENGINEER

ESOTA - TELE: 612 546-0001

WAK, ARCHITECT

H ROBERT TRAIL

MINNESOTA 55068

54 FAX: 612 423-2255

EXHIBIT

A

AL NOTES:

IN ACCORDANCE W/ UBC 2305(d) AMENDED

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FOR THE PRESALES

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THICKNESSES, REINFORCEMENT, AND CONTROL JOINTS.

ION OF LOAD BEARING CONCRETE MASONRY'

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ARCHITECT SHOWING THE COMPRESSIVE STRENGTH

EMENT EVERY SECOND COURSE IN STACK BOND WALLS

5 BARS; DISCONTINUE BARS AT CONTROL JOINTS
#5 BARS ABOVE DOORS AND WINDOWS UP TO 4 FEET
#4 T&B BARS FOR OPENINGS UP TO 8 FEET WIDE OR
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TO LINTEL BEARING, GROUT SOLID (TYPICAL) SEE
SHEETS OF THE LOADING DOCK OVERHEAD DOORS.

ERECTION OF STRUCTURAL STEEL FOR BUILDINGS'

I HEREBY CERTIFY THAT THESE
CONSTRUCTION DOCUMENTS WERE
PREPARED BY ME, OR UNDER MY
DIRECT SUPERVISION, AND THAT I
AM A DULY REGISTERED ARCHITECT
IN THE STATE OF MINNESOTA.

DATE: 5/1/20
REG. NO. 3687

John W.

CHARLES NOVAK, ARCHITECT
150 SOUTH ROBERT TRAIL
REMOUNT, MINNESOTA 55068
: 612 423-2254 FAX: 612 423-2255

EXHIBIT
B

STATE OF MINNESOTA



Phone: (651) 296-2388
FAX: (651) 297-5310
TTY: 800-627-3529

85 EAST 7TH PLACE, SUITE #160
SAINT PAUL, MINNESOTA 55101

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

October 6, 1998

OCT 08 1998

Ms. Glenda Loving
Executive Secretary
Iowa Architectural Examining Board
1918 SE Hulsizer
Ankeny, IA 50021-3941

Dear Glenda,

The Board at its meeting of July 17 approved the reinstatement of the architectural license of Charles Novak. It was the opinion of the Board that Mr. Novak complied with the conditions set forth at the time of his suspension.

Please contact this office if you require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "George Iwan".

George Iwan
Executive Secretary

GI:jr



October 9, 1998

COPY

Mr. Charles Novak
14750 S Robert Trail
Rosemount MN 55068

Dear Mr. Novak:

The Iowa Architectural Examining Board has received notice from the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design that effective July 17, 1998, your Minnesota Architectural License was reinstated.

The Iowa Board's Settlement Agreement and Consent Order suspended your Iowa license until your Minnesota license was reinstated. Therefore, based upon the fact that Minnesota has reinstated your license, the Iowa Board has approved the reinstatement of your Iowa architecture registration as well.

If you have questions or require further information, please feel free to contact the board office.

Sincerely,

Glenda Loving, Executive Secretary
Iowa Architectural Examining Board
515/281-4126

enc.