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

In the Matter of Virginia Marie Carlson,
Unlicensed

ORDER GRANTING
SUMMARY DISPOSITION

The above-entitled matter came before the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design on September 13. Anthony de Sam Lazaro, Assistant Attorney General, appeared on behalf of the Board’s Complaint Committee. Respondent Virginia Carlson appeared on her own behalf.

On June 13, 2018, Administrative Law Judge James Mortenson recommended granting the Committee’s motion for summary disposition. On June 20, the Board informed the parties of their right to file exceptions and argument with the Board pursuant to Minn. Stat. § 14.61, subd. 1 (2016). On July 20, the Committee filed arguments and exceptions with the Board and on July 19 and 20, Respondent submitted arguments and exceptions with the Board. The record closed on July 20.

Based on all the facts, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. Based on its independent review of the record, and subject to the following findings of fact and the attached red-lined revisions, the Board adopts as its own the findings of fact contained in the ALJ’s memorandum.

2. Respondent knew or should have known that representing to the public that she was a licensed architect, “project architect,” “residential architect,” or “design architect” in connection with a company named “Architektur, Inc.” violated the Board’s 1999 cease and desist order and Minn. Stat. § 326.02.
3. Respondent’s violation resulted in significant financial harm to her former clients.

4. Respondent’s misconduct leading to the Board’s 1999 cease and desist order and her misconduct leading to the current contested case proceeding are substantially similar, if not identical.

5. Respondent refuses to acknowledge that she violated the law or that her misconduct harmed the public.

6. Any conclusions of law that should be termed findings of fact are hereby adopted as such.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board makes the following conclusions of law:

1. Subject to the following conclusions of law and the attached red-lined revisions, the Board adopts and incorporates as its own the conclusions of law in the ALJ’s memorandum.

2. The record contains no credible or probative evidence that Respondent submitted a timely request to contest the 1999 cease and desist order, and her general assertion is insufficient to create an issue of fact necessitating a hearing. See Nicollet Restoration, Inc. v. City of St. Paul, 533 N.W.2d 845, 848 (Minn. 1995) (providing that the non-moving party may not rely on speculation, general assertions, or promises to produce evidence at the hearing to create a genuine issue of material fact).

3. Respondent’s contention that she did not violate Minnesota law is not substantially justified.

4. The statute of limitations set forth in Minn. Stat. § 541.07(2) (2016) does not apply to this regulatory action. Courts have consistently refused to impose time limitations on
administrative proceedings. See, e.g., Har-Mar Inc. v. Thorsen & Thorshov, Inc., 218 N.W.2d 751, 755 (Minn. 1974) ("Based on the special nature of arbitration proceedings and both the statutory and common law meaning of the term ‘action,’ we feel compelled to hold that § 541.05 was not intended to bar arbitration of Thorsen’s fee dispute solely because such claim would be barred if asserted in an action in court."); In re Holly Inn, Inc., 386 N.W.2d 305, 308 (Minn. Ct. App. 1986) ("In light of section 645.45(2), which continues to define ‘action’ as ‘any proceeding in any court of this state’ (emphasis supplied), and case law which continues to apply that same definition, we believe the general statute of limitations does not apply to this administrative proceeding."); In re Schultz, 375 N.W.2d 509, 518 (Minn. Ct. App. 1985) ("There is no statute of limitations in the statutes governing the dental profession, Minn. Stat. §§ 150A.01-.21."); In re N.P., 361 N.W.2d 386, 392-93 (Minn. 1985) (rejecting claim of "undue delay" after 4 year investigation into attorney misconduct).

5. Respondent’s argument and exceptions submissions included new evidence that was outside the evidentiary record. In addition, Respondent filed additional materials with the Board after the record closed on July 20. The Board did not consider any materials that were outside the evidentiary record or that were late-filed because Respondent did not make a motion for these materials to be considered or otherwise failed to articulate any reason why they could not have been submitted in a timely manner. Minn. Stat. § 14.60, subd. 2 (prohibiting consideration of any factual information unless it is part of the record); Minn. R. 1400.7300, subp. 2, .8100 (providing that agency shall not consider information which is not part of the record); In the Matter of the Residential Building Contractor License of LeMaster Restoration, Inc., 2011 WL 2437463, * 5 (Minn. Ct. App. June 20, 2011) (affirming Commissioner’s decision to not consider new evidence submitted with a licensee’s exceptions to ALJ’s report).
6. While the Committee requested that the Board issue a cease and desist order in as part of its final order, the underlying notice and order for hearing specified that the Committee initiated this action under Minn. Stat. § 326.111, subd. 6 to determine whether to impose a civil penalty against Respondent. If the Committee believes that another cease and desist order should be issued against Respondent based on the underlying facts, it has the authority to issue such an order pursuant to Minn. Stat. § 326.111, subd. 3(a). If Respondent requested a hearing to contest such an order, the Board would have the authority to “issue a further order vacating, modifying, or making permanent the cease and as the facts require” under Minn. Stat. § 326B.111, subd. 3(d).

7. Any findings of fact from the ALJ’s memorandum that should be termed conclusions of law are hereby adopted as such.

8. This order is in the public interest.

ORDER

IT IS ORDERED that, pursuant to Minn. Stat. § 326.111, subd. 6(a) (2016), Respondent shall pay a civil penalty of $10,000 to the State of Minnesota.

IT IS FURTHER ORDERED that, pursuant to Minn. Stat. § 326.111, subd. 6(b) (2016), the Board imposes a fee against Respondent to reimburse it for all the costs charged by the Office of Administrative Hearings for the underlying contested case proceeding.

Pursuant to Minn. Stat. § 16D.17(1) (2016), Respondent is notified that this shall become a final civil penalty order unless she requests a hearing from the Board on the civil penalty within 30 days. Pursuant to Minn. Stat. § 16D.17(2) (2016), Respondent is further notified that when the civil penalty order becomes final, the Board may file and enforce the civil penalty in the same manner as a district court judgment against her without further notice or additional
proceedings. Finally, Respondent is notified that simple interest computed in accordance with Minn. Stat. § 16D.13 (2016), shall begin to accrue on the civil penalty 30 days after the date of this order.

Dated: 9-13-2018

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

Nirmal Jain, Chair

(Daniel E. Murphy)
MEMORANDUM

I. Undisputed Facts and Procedural History

Respondent has never been licensed as an architect. Respondent was holding herself out to the public as an architect. Specifically, Respondent had held herself out to a client as a licensed architect when she was not licensed by advertising and contracting to perform "architectural design services." The Board ordered Respondent to "CEASE and DESIST from the practice of architecture and from holding herself out to the public as a licensed architect, whether in written, oral, electronic, or other communications; and from further violations of Minn. Stat. §§ 326.02 to 326.15." The Order became final on October 25, 1999.

Respondent and her husband, principals of Architektur, Inc., signed a contract in October 2012 with B.C. and K.C. to design and build a home in Scandia, Minnesota. The contract indicates that Respondent would provide "architectural design services." Throughout Respondent's interactions with B.C. and K.C., Respondent stated she was a licensed architect and an associate of the American Institute of Architects (AIA). Additionally, on January 2, 2013, Respondent attended a City of Scandia Planning Commission meeting where she referred to herself as the "project architect" for the Scandia home.

B.C. and K.C. paid Respondent $10,000 toward the Scandia project. When Respondent contracted with B.C. and K.C., she did not reveal that she had been charged in Hennepin County District Court with multiple counts of felony theft by swindle.

1 Affidavit of Doreen Frost at ¶ 3; Testimony of Virginia Carlson; Respondent submitted documentation to show that she is currently eligible to take the licensure examinations, which is one of the requirements for architect licensure. Respondent's Exhibit A (Correspondence from Board to Respondent indicating that the Board received her application for "Architect by Examination" and the required application fee (Dec. 19, 2012)).
2 Committee's Exhibit O (Copy of Cease and Desist Order and Notice of Right to Hearing issued to Virginia Carlson, dated Sept. 17, 1999).
3 Committee's Exhibit O (Copy of Cease and Desist Order and Notice of Right to Hearing issued to Virginia Carlson, dated Sept. 17, 1999).
4 Id. (emphasis in original).
5 Aff. of D. Frost at ¶ 6.
6 Committee's Ex. C (Order and Memorandum from Washington County District Court dated Jan. 12, 2015) at 3; Respondent's Exhibit D (Design-Build Contract).
7 Respondent's Exhibit D at 2.
8 Committee's Exhibit C (Order and Memorandum from Washington County District Court dated Jan. 12, 2015) at 3, 7.
10 Committee's Ex. C at 3.
involving an unrelated commercial real estate project. Upon learning Respondent faced felony charges and lacked an architect license, B.C. and K.C. terminated their contract with Architektur, Inc. in early 2013.

A series of civil and criminal court proceedings occurred beginning in 2013. As a result of Respondent’s actions with B.C. and K.C., she was criminally charged in July 2013 with one count of theft by swindle. In August 2013, Respondent, through Architektur, Inc., sued B.C. and K.C. in civil court for breach of contract, mechanic’s lien foreclosure and unjust enrichment. B.C. and K.C. responded by filing counterclaims based on alleged fraud and breach of contract, and moved for summary judgment.

In November 2014, while Respondent’s criminal and civil proceedings involving B.C. and K.C. moved through the court system, Respondent was found guilty of theft by swindle for the unrelated commercial real estate project involving different victims. Although she received a stayed prison sentence, Respondent was ordered to serve one year in the Hennepin County Workhouse. Respondent appealed the conviction but it was affirmed by the Minnesota Court of Appeals. The Minnesota Supreme Court denied review, at which point the conviction became final.

In January 2015, B.C. and K.C. prevailed in the civil case. The court stated Respondent “represented, inter alia, that she was a licensed architect, an American Institute of Architects (AIA) Associate, and a nationally certified interior designer.”

Respondent made admissions during her plea

12 Committee's Ex. C at 3.
14 Committee's Ex. E (Civil Complaint in Washington County District Court with Architektur, Inc. as plaintiff, dated August 1, 2013).
15 Committee's Ex. C at 4.
17 Id.
19 Id.
20 Committee's Ex. C at 7.
22 Committee's Ex. G (Petition to Enter Plea of Guilty in Felony Case Pursuant to Rule 15, dated April 27, 2015).
hearing that confirmed that she told B.C. and K.C. that she was an architect, and that she led B.C. and K.C. to believe that she was an architect, even though she was aware of the Board’s 1999 Cease and Desist Order which prohibited Respondent from holding herself out as an architect. Respondent appealed this conviction and it was affirmed on appeal.

Additionally, the Minnesota Department of Labor and Industry sanctioned Respondent for holding herself out as a building contractor in spite of the fact that she lacked a license, a decision that was upheld on appeal. Notably, no stays are in place for any of Respondent’s appeals highlighted above.

B.C. and K.C. submitted a written complaint concerning Respondent to the Board in April 2014. In their complaint, B.C. and K.C. stated that Respondent “represented to them that she was a licensed architect,” attempted to bill B.C. and K.C. for architectural work while failing to produce plans, and requested the Board investigate “to prevent Carlson from hurting anyone else.” The Committee opened up an investigation. Respondent submitted several letters to the Committee in response to the investigation, and spoke with the Committee at a meeting. Respondent indicated she has described herself as “residential architect,” “project architect,” and “design architect.”

On August 23, 2017, the Committee filed a Notice and Order for Hearing and Prehearing Conference (Notice and Order for Hearing) with the Office of Administrative Hearings. The Committee sought disciplinary action against Respondent for holding herself out to the public as an architect in multiple instances in violation of Minnesota state law.

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26 Test. of V. Carlson.
27 Aff. of D. Frost at ¶ 7.
28 Id.
29 Id.
30 Id. at ¶¶ 17, 18; Committee Exs. J (Correspondence from Respondent to Committee’s investigator dated May 29, 2014) [this includes a scanned copy of Respondent’s business card for Architektur, Inc. and letterhead; Respondent also indicates that she has referred to herself as “design architect” and that she did so for the project with B.C. and K.C.], K (Correspondence from Respondent to Committee’s investigator dated June 24, 2014) [Respondent indicates she has used the terms “design architect,” “residential architect,” and “project architect”], and L (audio recording of Committee hearing) (on file with Minn. Office Admin. Hearings).
Statutes section 326.02, subdivisions 1 and 2, and for violating the Board's 1999 Cease and Desist Order.\textsuperscript{33} 

On November 27, 2017, the Administrative Law Judge held a prehearing conference.\textsuperscript{34} The Judge thereafter issued a First Prehearing Order scheduling a hearing for July 17, 2018.\textsuperscript{35} On April 23, 2018, the Committee moved for summary disposition.\textsuperscript{36} Respondent filed a response to the Committee's motion on May 7, 2018.\textsuperscript{37} On May 14, 2018, the Committee filed a reply memorandum supporting summary disposition.\textsuperscript{38} A motion hearing was held on May 15, 2018.\textsuperscript{39} 

\section{Summary Disposition Standard} 

Summary disposition is the administrative law equivalent of summary judgment.\textsuperscript{40} The Office of Administrative Hearings has generally followed the summary judgment standards developed in judicial courts in considering motions for summary disposition regarding contested case matters.\textsuperscript{41} Summary disposition of a claim is appropriate when there is no genuine issue of material fact and one party is entitled to a favorable decision as a matter of law.\textsuperscript{42} 

To obtain summary disposition, the moving party must establish that there is no genuine issue of material fact.\textsuperscript{43} A material fact is one that is substantial and will affect the result or outcome of the proceeding, depending upon the determination of that fact.\textsuperscript{44} If the moving party successfully demonstrates there are no issues of material fact, then the non-moving party must prove there are facts in dispute that could affect the outcome of the case.\textsuperscript{45} Disputed facts must be shown with "substantial evidence," rather than only denying the moving party's statements.\textsuperscript{46} 

\textsuperscript{33} Id. at 5. 
\textsuperscript{34} See First Prehearing Order (November 28, 2017). The initial prehearing conference was rescheduled due to a request for a continuance by Respondent. See Order for Continuance (Sept. 27, 2017). 
\textsuperscript{35} Id. 
\textsuperscript{36} Committee's Notice of Motion and Motion for Summary Disposition (Apr. 23, 2018). 
\textsuperscript{37} Response to Complaint Committee's Memorandum Supporting Its Motion for Summary Disposition and Request for In-Person Hearing on Complaint Committee's Motion for Summary Disposition and Notice of Motion and Motion to Subpoena Witnesses and Documents (May 7, 2018). 
\textsuperscript{38} Complaint Committee's Reply Memorandum Supporting Summary Disposition (May 14, 2018). 
\textsuperscript{39} Scheduling Order (May 10, 2018). 
\textsuperscript{40} Pietsch v. Bd. of Chiropractic Exam'rs, 683 N.W.2d 303, 306 (Minn. 2004); Minn. R. 1400.5500(K) (2017). 
\textsuperscript{41} Minn. R. 1400.6600 (2017); Minn. R. Civ. P. 56. 
\textsuperscript{42} Minn. R. Civ. P. 56.03. 
\textsuperscript{43} Minn. R. Civ. P. 56.03; Anderson v. Dept. of Natural Resources, 693 N.W.2d 181, 191 (Minn. 2005). 
\textsuperscript{44} Highland Chateau v. Minnesota Department of Public Welfare, 356 N.W.2d 804, 808 (Minn. Ct. App. 1984). 
\textsuperscript{45} Minn. R. Civ. P. 56.05; DLH, Inc. v. Russ, 566 N.W.2d 60, 69 (Minn. 1997). 
\textsuperscript{46} Minn. R. Civ. P. 56.05.
Finally, when considering a motion for summary disposition, an administrative law judge must view the evidence in the light most favorable to the non-moving party, and doubts and factual inferences must be resolved against the moving party.\textsuperscript{47} The trial court's function is not to decide the facts at issue, but to determine whether a genuine dispute of fact exists.\textsuperscript{48}

III. Applicable Law

The Board is authorized under Minnesota Statutes § 326.04, subd. 1 "[t]o carry out the provisions of sections 326.02 to 326.15," which govern the licensure of architects and practice of architecture in Minnesota.\textsuperscript{49} This authority includes the regulation of unlicensed practice and use of the term "architect."\textsuperscript{50} Minnesota Statutes § 326.02, subd. 1, specifically states:

Subdivision 1. Licensure or certification mandatory.

It shall be unlawful for any person . . . to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is an architect . . . unless such person is qualified by licensure or certification under sections 326.02 to 326.15.\textsuperscript{51}

IV. Analysis

A. Overview

The Committee asserts that Respondent represented to the public that she was an architect in three main instances: telling her former clients that she was an architect; calling her company "Architektur;" and describing herself alternatively as a "design architect," "project architect," and "residential architect." Moreover, the Committee argues that Respondent violated the 1999 Cease and Desist Order by representing that she was an architect.

The Committee bases its arguments primarily on the findings and conclusions of prior judicial proceedings, arguing that collateral estoppel precludes re-litigation of those issues. Additionally, the Committee points to Respondent's admissions at her plea hearing and Respondent's statements in front of the Committee in support of its arguments.

\textsuperscript{47} Rochester City Lines, Co. v. City of Rochester, 868 N.W.2d 655, 661 (Minn. 2015).
\textsuperscript{48} Id. at 664.
\textsuperscript{49} Minn. Stat. §§ 326.02-.15 (2016); Frost Aff. ¶ 2.
\textsuperscript{50} Id.
\textsuperscript{51} Emphasis added.
Respondent asserts that the prior court proceedings should be inadmissible because the final decisions are under appeal. Respondent also makes arguments relating to the validity of the 1999 Cease and Desist Order, her status as an applicant eligible to sit for licensure exams, and additional arguments that are further addressed below.

The Committee bears the initial burden to show there are no genuine issues of material fact. The Committee met this burden. Respondent has failed to show that there are material facts in dispute. The Committee is entitled to judgement as a matter of law and the motion is granted.

B. Respondent held herself out to the public as an architect in violation of Minnesota Statutes, section 326.02, subdivisions 1 and 2

i. Re-litigation of Determined Facts

The Committee argues that the doctrine of collateral estoppel should preclude Respondent from denying that she held herself out as a licensed architect to B.C. and K.C. Respondent argues that collateral estoppel should not be applied because she is currently appealing the lower courts' decisions. Respondent contends that all of the court cases against her are still "pending disposition" and therefore collateral estoppel should not be applied.

"Collateral estoppel, sometimes referred to as issue preclusion, precludes parties from relitigating issues which are identical to issues previously litigated and which were necessary and essential to the former resulting judgment." 52 Collateral estoppel applies where:

1. the issue is identical to one in a prior adjudication;
2. there was a final judgment on the merits in the prior proceeding;
3. the estopped party was a party or in privity with a party to the prior adjudication; and
4. the estopped party was given a full and fair opportunity to be heard on the adjudicated issue.53

Additionally, "a court applying collateral estoppel must be convinced that its application is fair." 54 "Where the doctrine of collateral estoppel precludes relitigation of an issue, there is no issue of material fact, and summary judgment is proper." 55

52 Aufderhar v. Data Dispatch, 452 N.W.2d 648, 650 (Minn. 1990), citing Ellis v. Minneapolis Comm'n of Civil Rights, 319 N.W.2d 702, 704 (Minn. 1982).
53 Ellis v. Minneapolis Comm'n of Civil Rights, 319 N.W.2d 702, 704 (Minn. 1982).
Respondent is incorrect in her argument that the prior cases the Committee relies on are still pending disposition. No stays have been put in place for any of Respondent's cases. Furthermore, each of Respondent's cases, including the Washington County case, has been denied further review by the appellate courts.

In Architektur, Inc. v. Crane, Washington Cty. No. 82-CV-13-4097 (Jan. 12, 2015), one of the key issues addressed by the court was whether Respondent represented that she was an architect. The court explicitly found that Carlson "represented, inter alia, that she was a licensed architect, an American Institute of Architects (AIA) Associate, and a nationally certified interior designer." Respondent was present in the suit and provided with a full and fair opportunity to litigate this issue, and the rest of her case in front of the court. As a result, the Administrative Law Judge finds that collateral estoppel applies and that Respondent therefore is precluded from contending that she did not hold herself out to her former clients as an architect.

The Administrative Law Judge finds therefore that Respondent held herself out to B.C. and K.C. as a licensed architect in violation of Minn. Stat. § 326.02.

ii. Respondent's Admissions During Committee Investigation

The Committee investigated Respondent's actions. The Committee argues that Respondent's admissions during this investigation show that she admitted to using the terms "residential architect," "project architect," and "design architect" to refer to herself in advertisements and communications. As the Committee asserts, the use of an adjective such as "design," "residential," or "project" in front of the word "architect" does not negate the fact that Respondent "convey[ed] the impression" that she was an architect in violation of Minn. Stat. § 326.02. Respondent, argues that various jobs, such as "IT architect," also use the term "architect" without conveying any improper impression. However, as noted by the Committee, "[a]n individual seeking an architect licensed to design a building is unlikely to be confused and contact someone holding herself out as an 'IT architect.'" In addition, viewing the terms the Respondent used

(Footnote Continued from Previous Page)

55 Id.
56 Test. of V. Carlson.
58 Committee's Ex. Cat 7.
59 Complaint Committee's Memorandum Supporting Its Motion for Summary Disposition at 8.
("residential architect," "project architect," and "design architect") with the name of her business (Architektur, Inc.) further supports the assertion that Respondent held herself out as an architect.

Respondent also argues that she is permitted to work on single family homes without being licensed. However, regardless of whether Respondent has statutory authority to provide certain architectural services, she is not permitted to hold herself out as a licensed architect.

The Administrative Law Judge finds that Respondent’s admissions support the conclusion that she violated Minn. Stat. § 326.02.

C. Respondent violated the Board’s 1999 Cease and Desist Order

In 1999, the Board ordered Respondent to cease and desist from the practice of architecture and from holding herself out as an architect. Respondent does not dispute that the Board issued the 1999 Cease and Desist Order. Respondent does assert that the Cease and Desist Order was not final or that she was denied a hearing. The Committee contends that Respondent failed to make a timely request for a hearing, and thus the order became final 30 days after Respondent received it in 1999. The information in the record supports the Committee’s claim.

Additionally, Respondent argues that the Cease and Desist Order is no longer valid because the Board later allowed her to take the architect licensure exams. However, this permission relates specifically to the exam, and has no effect on the Order. The Order remains final until modified or vacated by the Board.

At Respondent’s plea hearing for her criminal case, Respondent admitted that she held herself out as an architect to B.C. and K.C. Respondent further acknowledged that she was aware of the 1999 Cease and Desist Order prohibiting her from doing so. The evidence in the record, viewed in the light most favorable to the Respondent, supports a conclusion that Respondent violated the Board’s 1999 Cease and Desist Order.

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60 The Washington County District Court notes that “Architektur, Inc.” is “the German spelling of the English word “architecture,” tacitly deceiving one into justifiably believing that Plaintiff and the Carlson’s were, at minimum, actively involved in and authorized to provide professional architectural services.” Committee’s Ex. C at 9.
61 Second Aff. of Doreen Frost at ¶¶ 3-4 (May 14, 2018).
62 Id. Ms. Frost indicates that the Board has no record that Respondent contested the 1999 cease and desist order and that although the Board “may have received” a request for a hearing from Respondent, any such request would have been received after the 30 day deadline passed, making it untimely. Id. Respondent has not produced evidence to contradict these statements.
63 Minn. Stat. § 326.111, subd. 3(e) (2016).
64 This admission also provides further support for the Committee’s argument that Respondent held herself out to the public as an architect.
D. Additional Arguments Made by Respondent

Respondent makes additional arguments, many of which are not relevant to this proceeding. She argues that the Committee withheld "exculpatory" evidence but does not identify the alleged evidence she believes is being withheld. The Committee submitted documentation that it provided Respondent with its entire investigative file.65 The Administrative Law Judge finds no issue of material fact regarding this argument.

Additionally, Respondent raises concerns regarding the proper consideration of her licensure application. Respondent also complains that there is no "approved" term for license-seekers, and asserts that the terms "project architect" and "design architect" are used within the industry by both licensed and unlicensed individuals. Respondent also points out that she is a member of a professional architectural association (AIA), and notes her previous certification as an interior designer and her academic and employment background as additional facts to be considered. These allegations, however, do not raise issues of material fact as to whether Respondent held herself out to be an architect. Nor do they alter the law applicable here.

Respondent also disputes certain aspects of her interactions with B.C. and K.C. and their credibility. Those issues have already been addressed in her civil case in Washington County District Court and are not appropriate for re-litigation here.

Respondent raises concerns with Doreen Frost’s affidavit, stating that Ms. Frost cannot provide architectural or legal expertise. However, the affidavit is properly based on Ms. Frost’s own knowledge and her role with the Board.

Lastly, Respondent makes various constitutional arguments that are outside of the jurisdiction of the Administrative Law Judge. Respondent has failed to show a genuine issue of material fact and therefore summary disposition is appropriate in this case.

V. Conclusion

The record demonstrates Respondent has held herself out to be an architect despite lacking a valid license. She has violated the Board’s 1999 Cease and Desist Order. There is no genuine dispute of material facts in this case and the Committee is entitled to judgment as a matter of law. Therefore, the Administrative Law Judge reaches the following conclusions and recommends summary disposition.

It is recommended that the Board, under its authority pursuant to Minn. Stat. § 326.111, subd. 6 (2016), impose a civil penalty for a single violation. The Committee alleged several violations of the law, but each of these allegations are facets of the same incident. Respondent violated the law by holding herself out as a licensed

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65 Aff. of Anthony de Sam Lazaro ¶¶ 2-3, Exs. 1, 2).
architect to B.C. and K.C., by using terms such as “design architect,” “project architect,” and “residential architect” in communications with B.C. and K.C. and others, and naming her company Architektur, Inc. in connection with the contract entered into with B.C. and K.C. Although these actions represent multiple representations, taken together, they constitute a single instance of Respondent holding herself out as a licensed architect to B.C. and K.C. over a period of time. This is a single violation of the Board’s 1999 cease and desist order and Minn. Stat. § 326.02. It is also recommended the Board re-issu[e] a cease and desist order. Given the multitude of litigation Respondent has been involved in related to her sale of architectural services, both criminal and civil, knows, or should know, she is in violation of Minn. Stat. § 326.02. Therefore, Based on the fact that Respondent knew or should have known that she violated Minn. Stat. § 326.02 and the 1999 cease and desist order, it is also recommended the Board impose a fee to reimburse itself for all or part of the cost of these proceedings pursuant to Minn. Stat. § 326.111, subd. 6(b) (2016). Finally, because of Respondent’s criminal history involving fraud and dishonesty, it is recommended the Board deny, suspend, or revoke Respondent’s application, pursuant to Minn. Stat. § 326.111, subd. 4 (2016), or any other action the Board deems fit to protect the public from Respondent.
AFFIDAVIT OF SERVICE BY MAIL

RE: In the Matter of Virginia Marie Carlson  OAH 5-1006-34618

STATE OF MINNESOTA  
COUNTY OF RAMSEY  

Kathryn Weiss, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 13th day of September, 2018, she served the attached ORDER GRANTING SUMMARY DISPOSITION 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:

Ms. Virginia Marie Carlson  
1161 E. Wayzata Blvd Apt 154  
Wayzata, MN 55391

Subscribed and sworn to before me on this the 13th day of September, 2018.

(Notary Public)