

**STATE OF MINNESOTA**  
**IN COURT OF APPEALS**

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Minnesota Board of Architecture,  
Engineering, Land Surveying,  
Landscape Architecture, Geoscience and  
Interior Design,

**COURT OF APPEALS**  
**NO:** \_\_\_\_\_

Respondent,

**PETITIONER'S STATEMENT OF  
THE CASE**

vs.

Charles L. Marohn, Jr.,

Petitioner.

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Petitioner, Charles L. Marohn, Jr., through his attorney, states as follows:

**1. Court or agency of case origination and name of presiding judge or hearing officer:** Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board"), Acting Chairperson Melisa Rodriguez, PE.

**2. Jurisdictional statement:**

**(A) Appeal from the Board's final order after review by Office of Administrative Hearings.**

- **Statute, rule or other authority authorizing appeal:**
  - **Date of entry of judgment or date of service of notice of filing of order from which appeal is taken:** July 12, 2022
  - **Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):** Minn. Stat. §14.63 (30 Days)
  - **Date of filing any motion that tolls appeal time:** Not applicable.

- **Date of filing of order deciding tolling motion and date of service of notice of filing:** Not Applicable.

**(B) Certiorari appeal.**

**Authority fixing time limit for certiorari review:**

- **Statute, rule or other authority authorizing certiorari appeal:**

Minn. Stat. §14.63; Rule of Civil Appellate Procedure 115.

- **Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal item, *i.e.*, mailing of decision, receipt of decision, or receipt of other notice):**

Minn. Stat. §14.63 (receipt of final decision and order). Receipt of final decision and order made on July 12, 2022.

- **Other Appellate proceedings.**

Not applicable.

**Statute, rule or other authority authorizing appellate proceeding:**

Not applicable.

- **Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal item, *i.e.*, mailing of decision, receipt of decision, or receipt of other notice):**

Not applicable.

**(C) Finality of order.**

- **Does the order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes (X) No ()**
- **If no:**  
**Did the district court order entry of a final partial judgment for immediate appeal pursuant to MINN. R. CIV. APP. P. 104.01?**

Not applicable.

- **If yes, provide date of order:** Final Order of Board: July 12, 2022.
- **If no, is the order or judgment appealed from reviewable under any exception to the finality rules?** Yes ( ) No ( ) Not applicable.
- **If yes, cite rule, statute, or other authority authorizing appeal:** Minn. Stat. §14.63; Rule of Civil Appellate Procedure 115.01.

**(D) Criminal only:** Not applicable.

- Has a sentence been imposed or imposition of sentence stayed?  
Yes ( ) No ( )
- If no, cite statute or rule authorizing interlocutory appeal:

### **3. State type of litigation and designate any statutes at issue.**

This appeal involves U.S. and state constitutional issues of free speech, as well as professional licensing and administrative enforcement, on the part of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (“Board”), especially the Board’s authority over assessment of violations and penalties. The First Amendment of the U.S. Constitution, Art. 1, §3 of the Minnesota Constitution, Minn. Stat. §§14.045, 326.02, 326.11, 645.16 and 646.17, et seq. and Minn. R. 1805.0200 are the relevant authorities for this appeal.

### **4. Brief description of claims, defenses, and issues litigated and result below.**

Petitioner brought his appeal for administrative review to the Office of Administrative Hearings (“OAH”) on grounds that the Board overstepped its authority to regulate non-practicing licensees, excessive penalties, and civil rights issues relating to free speech and the constitutionality of Minn. Stat. §326.02, facially and as applied. Administrative review was brought pursuant to Minn. Stat. §§14.63-.69. The Petitioner claimed: (1) that Petitioner did not misrepresent or fraudulently misrepresent his professional status nor practice that profession under the meaning of Minn. Stat. §326.02 and Minn. R. 1805.0200; (2) that the aforementioned authorities are facially overbroad and under Minn. Stat. §646.17, and as applied by the Board; and (3) that in any event, the penalties were excessive under Minn. Stat. §14.045. The ALJ ruled in favor of the Board on, May 31, 2022, on a motion for summary disposition against Petitioner, issuing to the Board a recommendation to make the Board’ initial determinations and penalties a final order. Subsequently, the Board adopted the recommendation of the OAH and entered its final order on July 12, 2022.

**5. List specific issues to be raised on appeal.**

1. Whether the Board erred in interpreting the relevant portions of Minn. Stat. §326.02 and Minn. R. 1805.0200 in rendering the final order as applying to persons not engaged in either the practice, or the offer to practice, engineering.
2. Whether Minn. Stat. §326.02 and Minn. R. 1805.0200 are facially or as applied by the Board, unconstitutionally overbroad.
3. Whether the Board's interpretation Petitioner's speech as a violation of Minn. Stat. § 326.02 and Minnesota Rule 1805.0200 violates the U.S. Constitution, Minnesota Constitution and Minn. Stat. §§645.16 and 646.17.
4. Whether Board's conclusions regarding disciplinary action against Petitioner were excessive, in view of Minn. Stat. § 14.045 and its own customary practice in other cases.

**6. Related Appeals: List all prior or pending appeals arising from the same action as this appeal. List any known pending appeals in separate actions raising similar issues to this appeal. In none are known, so state.**

None.

**7. Contents of Record.**

- Is a transcript necessary to review the issues on appeal? Yes.
- If a transcript is unavailable, is a statement of the proceedings necessary under Rule 110.03 necessary? No.
- In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? No.

**8. Is oral argument requested? Yes.**

- If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? No.
- If yes, state where argument is requested. Not applicable.

**9. Identify the type of brief to be filed.**

- **Formal brief under Rule 128.02:** (Yes)
- **Informal brief under Rule 128.01, subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits)** (Not applicable)
- **Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2.** (Not applicable)

**10. Names and addresses, zip codes, and telephone numbers for appellants and respondents.**

*Petitioner: Charles L. Marohn, Jr.*

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Dated: August 4, 2022

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