

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING,
LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN**

In the Matter of Professional Engineer
License of Charles Marohn

**RESPONDENT'S DISCOVERY
REQUESTS TO COMPLAINANT**

TO: Complaint Committee of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design, Through Their Attorney Allen Cook Barr, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN 55101-2131.

Pursuant to Minnesota Administrative Rule 1400.6700, Subpart 2, and Rules 33, 34, and 36 of the Minnesota Rules of Civil Procedure, Respondent Charles Marohn, requests that Complainant, Complaint Committee of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (the "Board"), within thirty days, or within such time as the Administrative Law Judge may allow or the parties agree: (1) answer the following Interrogatories, signed and under oath; (2) produce documents responsive to the Requests for Production of Documents; and (3) answer the following Requests for Admission.

A. INSTRUCTIONS:

1. The Interrogatories that are divided into subparts are to be answered separately as to each subpart contained therein, rather than as a single statement or paragraph intended to encompass the response to all parts contained in the Interrogatory.

2. When you believe that a complete answer to a particular Interrogatory or part of an Interrogatory is not possible, answer such Interrogatory to the extent possible and furnish a statement explaining the reason for inability to answer further.

3. In the Interrogatories, Document Requests and Requests for Admission, the singular shall be deemed to encompass the plural, and the plural shall be deemed to encompass the singular.

4. In these Interrogatories, Document Requests, and Requests for Admission, the feminine pronouns shall include the masculine pronouns, and the masculine shall include the feminine.

5. Your attention is directed to Rules 33, 34 and 36 of the Minnesota Rules of Civil Procedure, which provide that a party who produces documents for inspection “shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.” In this connection, and for the purposes of illustration, it is requested that all documents be produced in the file folders and file cartons in which they have been maintained or stored, clipped, stapled or otherwise arranged in the same form and manner as they were found. If you choose to produce the documents requested corresponding with the categories in the Requests, it is requested that you also identify the file folders, drawers or cartons in which the documents were originally maintained and the person or persons in whose custody or control such files are or were maintained. Any response to these Document Requests shall set forth the Document Request in full before each response. If, after a good faith search, you conclude that there never have been documents responsive to a particular

Document Request, so state.

6. Respondent's First Requests for Production of Documents accompanies Respondent's First Set of Interrogatories and First Requests for Admission. These Document Requests refer to those Interrogatories and Complainant's responses to these Document Requests should refer to the Interrogatories by number.

B. DEFINITIONS:

Persons and Entities:

1. "Complainant," "the Board," "You," or "Your" refers to the named Complainant, Complaint Committee of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design, their agents, attorneys, employees, tax preparers, accountants, financial advisers, financial planners, brokers, representatives, or any other persons acting or purporting to act on their behalf.

2. "Respondent" refers to the named Respondent in this litigation, Charles Marohn, his agents, attorneys, employees, tax preparers, accountants, financial advisers, financial planners, brokers, representatives, or any other persons acting or purporting to act on his behalf.

Terms:

3. "Each and every fact" includes, but is not limited to, identifying (as that term is defined in Definitions 1 and 2 above) all persons and all documents as well as specifying any places, dates, exact words used in conversations (or substance of conversations if exact words are not remembered), acts, events, and occurrences.

4. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the words “include(s)” and “including” shall be construed to mean “without limitation.”

5. “Document” is employed in its customary broad sense to mean the original and any non-identical copies of all written, graphic or computer material of every kind and description, whether draft or final, typed, handwritten, printed or otherwise, as well as any recording, photograph, photostat, microfilm, computer or computer disk or any other reproduction, including without limitation, the following items: correspondence; communications; facsimiles; e-mail messages; handwritten notes; work papers; reports; memoranda; summaries or records of personal conversations or interviews; diaries; desk calendars; minutes or records of meetings; lists of persons attending meetings; opinions of counsel; opinions or reports of consultants; records or summaries of investigations; offers; records or summaries of negotiations; contracts; agreements; telephone records or call slips; expense reports; telegrams; telefax; cables; teletype messages; forecasts; statistical statements; computer printouts; bills; receipts; checks; check books; invoices; microfilm or other data compilations; computer disks, computer hard drives, electromagnetic tape recordings, video recordings, or other electronic recordings and/or transcriptions; electronically stored data including documents existing only in electronic form; photographs; films; articles of incorporation; bylaws; resolutions; directives; state and federal tax returns; financial statements; prospectuses; confirmations; statements of account; investment summaries; investment transaction records; accounting worksheets; calculations; ledgers; journal pages or other media forms; books or records of accounts;

loan documents; appraisal records; press releases; newspapers; magazines; advertisements; periodicals; bulletins; circulars; brochures; letters; pamphlets; manuals; policies; applications; drafts and alterations of any document; original or preliminary notes; and marginal comments appearing on any document in Your possession, custody and/or control, or available to You, Your agents, attorneys, employees, representatives and/or any other persons acting or purporting to act on Your behalf or known by You to exist. Any documents bearing on any sheet or side thereof any marks, including, by way of illustration only and not by way of limitation, initials, stamped indicia, any comment or notation of any character and not a part of the original text, or a reproduction thereof, is to be considered a separate document for purposes of these Interrogatories, Document Requests and Requests for Admissions.

6. “Identify” and/or “identity,” when used in reference to a document, means to provide as to each such document the following information: its date and author, the type of document (i.e., letter, memorandum, telegram, facsimile, chart, etc.) or other means of identifying it, the name and address of each signatory, the name and address of each person receiving a copy of the document or designated as a recipient, and its present location and/or custodian. If any such document was but is no longer in Your possession or subject to Your control, state what disposition was made of it and the date of such disposition. With respect to document identification, documents prepared subsequent to or prior to the time period specified in the Interrogatory but which relate or refer to such time period are to be included.

7. “Identify” and/or “identity,” when used in reference to a person, means to provide as to each such person the following information: his, her, or its full name and present address, telephone number, email, present or last known position or business affiliation, position and business affiliation at the time in question and his, her, or its status or relationship, if any, to You.

8. “Including,” when used in these Discovery Requests as requesting certain specified information, should be understood to mean “including but not limited to” and/or “without limitation to” such specific information.

9. “Oral communications” means any and every form of non-written communication between or involving two or more persons, including but not limited to meetings, conferences, telephone conversations and discussions, by whatever means accomplished.

10. “Person” should be understood to refer equally to natural persons, corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, firms, joint ventures, associations or other entities, as the case may be.

11. “Specify in all possible detail” means to describe completely and accurately to the best to Your ability the subject matter about which inquiry is made, using the most factual statements of which You are capable.

C. TIME PERIOD.

Unless otherwise specified or indicated, either directly or indirectly, each Interrogatory set forth herein calls for information for a period January 1, 2015 and

continuing up to and including the date these Interrogatories are answered. If any Answers do not apply to this entire time frame, or if more than one Answer is not applicable to the entire time frame, Answers for each relevant time frame during the aforesaid overall time frame should be set forth together with the specific date establishing the time from when such Answers were applicable.

Unless otherwise specified or indicated, either directly or indirectly, each Document Request calls for all documents generated, prepared or received during the period January 1, 2018 and continuing up to and including the date of production, or which refer to matters occurring within such time frame. Respondent reserves the right to request additional documents.

D. PRIVILEGED OR PROPRIETARY MATTER.

If any Document Request herein is deemed to call for the production of privileged or work product materials and such privilege or work product is asserted, identify in writing each and every document so withheld and provide the following information for each and every document:

1. The reason for withholding the document;
2. A statement for the basis for the claim of privilege, work product or other ground of non-disclosure; and
3. A brief description of the document, including:
 - (a) the date of the document;
 - (b) the number of pages, attachments and appendices;

- (c) the name of its author (s), or preparer(s), and identification by employment and title of each such person;
- (d) the name of each person who was sent, shown, or copied the document or has had access to or custody of the document, together with identification of each such person;
- (e) the present custodian; and
- (f) the subject matter of the document, and in the case of any document relating or referring to an oral conversation, identification of such meeting or conversation.

If any Document Request is deemed to call for disclosure of proprietary data within the meaning of Rule 26 of the Minnesota Rules of Civil Procedure, Respondent is prepared to receive such data pursuant to an appropriate order with respect to confidentiality.

E. LOST OR DESTROYED DOCUMENTS.

If any document requested herein was at one time in existence, but has been lost, discarded or destroyed, identify such document as completely as possible, providing as much of following information is possible:

- (a) the type of document;
- (b) its date;
- (c) the date or approximate date it was lost, discarded or destroyed;
- (d) the circumstances and manner in which it was lost, discarded or destroyed;

- (e) the reason or reasons for disposing of the document (if discarded or destroyed);
- (f) the identity of all persons authorizing or having knowledge of the circumstances surrounding the disposal of the document;
- (g) the identity of the person (s) who lost, discarded or destroyed a document;
- and
- (h) the identity of all persons having knowledge of the contents of any such document.

F. **INTERROGATORIES.**

INTERROGATORY No. 1: Identify the person or persons who prepared or participated in the preparation of the answers to these Interrogatories and, as to each Interrogatory, state the name of each and every person who answered or supplied information for the answer to that particular Interrogatory; and with respect to each such person, specifying in all possible detail, each and every fact that they have knowledge of and the identity of each and every document which discusses, reflects, refers or relates to any such fact.

INTERROGATORY No. 2: Identify each and every person having knowledge with respect to any of the allegations contained in the Notice and Order for Prehearing Conference, Your July 24, 2020 Letter to Respondent, David Dixon's Complaint and/or Respondent's Responses to the Allegations against him and with respect to each such person identified, specify in all possible detail each and every fact of which each such identified person has knowledge.

INTERROGATORY No. 3: Identify each and every document which You reviewed and/or relied upon in preparing responses to these discovery requests and include in Your answer the date of each document, its author and any designated recipient of the document.

INTERROGATORY No. 4: If any of the information, documents and/or other items requested in Respondent's First Set of Interrogatories or First Request for Production of Documents is withheld on the basis of privilege, work product or otherwise, identify each item of information so withheld and provide the following information:

- (a) the basis for the claim of privilege, work product, or other ground of non-disclosure; and,
- (b) if the information is contained in a document, provide the identity of the document, the number of pages, attachments, and/or appendices, the identity of each and every person who had access to work custody of the document, the present custodian of the document, and describe the subject matter of the document.

INTERROGATORY No. 5: Identify each person You expect to call as an expert witness at the hearing of the above-captioned action and, with respect to each such expert witness, state the subject matter on which the expert is expected to testify, the assessment of the facts and opinions of which the expert is expected to testify, a summary of the grounds for each opinion, and the identity of all documents or other items the expert reviewed or relied upon in forming such opinions.

INTERROGATORY No. 6: With respect to each Request for Admission which You did not unequivocally admit, specify in all possible detail the reasons for not

unequivocally admitting the Request including, but not limited to, each and every fact which You claim makes the Request for Admission untrue.

INTERROGATORY No. 7: Identify each and every document in Your possession, custody and/or control that relates, refers, and/or pertains in any way to Respondent.

INTERROGATORY No. 8: State in detail the substance of each and every conversation You have had that pertains, refers, and/or relates in any way to Respondent.

INTERROGATORY No. 9: Identify each and every document in Your possession, custody and/or control that relates, refers, and/or pertains in any way to the allegations contained in this Action, including but not limited to, the allegations contained in the Notice and Order for Prehearing Conference, and the Complaint of David Dixon.

INTERROGATORY No. 10: Identify each and every Professional Engineer since January 1, 2018 that you have disciplined for holding himself out as a licensed professional engineer, and for each such disciplinary proceeding, identify the discipline sought, the ultimate outcome of the proceeding, and whether each respondent in said proceeding had been practicing as an engineer during the time period he or she allegedly held themselves out as a licensed professional engineer.

INTERROGATORY No. 11: Identify each and every statement that you allege constitutes an admission against interest by Respondent.

INTERROGATORY No. 12: Identify each and every statement, oral or written, in which you allege that Respondent held himself out as a professional engineer.

INTERROGATORY No. 13: Identify any evidence you allege demonstrates that Respondent intentionally held himself out as a licensed professional engineer with

knowledge that his license had lapsed.

INTERROGATORY No. 14: Identify each and every occasion on which you allege that Respondent practiced, or offered to practice as a professional engineer during the time period his licensure was lapsed.

INTERROGATORY No. 16: Identify each and every service You allege Respondent performed as professional engineer during the time period that his licensure was lapsed that constituted professional engineering under the definition contained in Minn. Stat. § 326.02, subd. 3.

INTERROGATORY No. 17: Identify each and every false statement You allege Respondent made on an application for renewal as stated in Count II of the Notice of Hearing.

INTERROGATORY No. 18: Identify each and every misrepresentation You allege Respondent has made as stated in Count II of the Notice of Hearing.

INTERROGATORY No. 19: Identify each and every fact supporting Your allegation in Count II of the Notice of Hearing that Respondent has failed “to be truthful in all professional documents.”

INTERROGATORY No. 20: Describe in detail the process by which You identify and select parties for professional discipline and whether those procedures were followed with respect to Respondent.

G. REQUESTS FOR PRODUCTION OF DOCUMENTS.

DOCUMENT REQUEST No. 1: Produce each and every document identified in response to Respondent's First Set of Interrogatories.

DOCUMENT REQUEST No. 2: Produce each and every document that discusses, reflects, relates, refers, and/or pertains in any way to the Respondent, including but not limited to all correspondence, electronic or otherwise.

DOCUMENT REQUEST No. 3: Produce each and every document that discusses, reflects, relates, refers, and/or pertains in any way to the allegations contained in the Notice of Hearing, Your Correspondence to Respondent, or David Dixon's Complaint, as well as Respondent's defenses.

DOCUMENT REQUEST No. 4: Produce each and every document that discusses, reflects, relates, refers, and/or pertains to in any way to any disciplinary matters since January 1, 2018 under Minn. Stat. 326.02, subds. 1 and/or 3.

DOCUMENT REQUEST No. 5: Produce each and every document that discusses, reflects, relates, refers, and/or pertains to in any way to any disciplinary since January 1, 2018 under Minn. R. 1805.0200, subp. 1(B).

DOCUMENT REQUEST No. 6: Produce each and every document that discusses, reflects, relates, refers, and/or pertains to in any way to any disciplinary since January 1, 2018 under Minn. R. 1805.0200, subp. 2.

DOCUMENT REQUEST No. 7: Produce each and every document that discusses, reflects, relates, refers, and/or pertains to in any way to any disciplinary since January 1, 2018 under Minn. R. 1805.0200, subp. 4(C).

DOCUMENT REQUEST No. 8: Produce each and every document that discusses, reflects, relates, refers, and/or pertains to in any way to any meetings You have had regarding Respondent and any disciplinary proceeding against him, including, but not limited to, meeting minutes.

DOCUMENT REQUEST No. 9: Produce each and every correspondence You have had with David Dixon.

H. REQUESTS FOR ADMISSION.

REQUEST FOR ADMISSION NO. 1. Admit that You have no evidence that Respondent performed any work as a professional engineer during the period his licensure was lapsed.

REQUEST FOR ADMISSION NO. 2. Admit that You have no evidence that Respondent had knowledge that his licensure had lapsed until he renewed it.

REQUEST FOR ADMISSION NO. 3. Admit that Respondent renewed his license before the Board sent any notification of a Complaint against him.

REQUEST FOR ADMISSION NO. 4. Admit that You renewed Respondent's license despite having knowledge of the Complaint against him.

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SIGNATURE PAGE TO FOLLOW

DATED: September 27, 2021

MOHRMAN, KAARDAL & ERICKSON,
P.A.

s/William F. Mohrman

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ATTORNEYS FOR RESPONDENT