

FILED 7/20/06 [Date]

IELSEB

Signature, Executive Officer

**BEFORE THE IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD**

IN THE MATTER OF:

**James Musilek
Mid-State Engineering & Testing Inc.
279 Road "D"
Columbus, NE 68601**

RESPONDENT

CASE NO. 06-07

**COMBINED STATEMENT OF
CHARGES AND CONSENT
ORDER**

A. Statement of Charges

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542B (2005).
2. Respondent is a licensed professional engineer in Iowa. He was issued license number 16407 on September 16, 2002. The respondent's professional engineer license is currently in pending status.
3. Respondent has been disciplined by a licensing authority in a different jurisdiction and is accordingly in violation of this Board's laws pursuant to Iowa Code section 542B.21(6). A true copy of the Nebraska disciplinary order is attached as Exhibit A.
4. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

B. Settlement Agreement and Consent Order

5. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

6. 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.

7. 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 future disciplinary action to be imposed in the event of any future violations.

8. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2005).

9. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2005). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

10. This Order is subject to approval of the Board:

(a) If the Board fails to approve this Order, 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 Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for violation of Iowa Code 542B.21, paragraph 6, disciplinary action by the licensing authority of another state, territory or country.

B. Remedial Action. Respondent's Iowa license shall be placed in probationary status until such time as he has fully complied with the Settlement Agreement with the Nebraska Board of Engineers and Architects dated September 15, 2004. Respondent must provide verification from the Nebraska Board of Engineers and Architects that he has been released from probationary status there in order to have his Iowa license released from probationary status.

D. Future Compliance.

Respondent shall in the future adhere to all statutes and administrative rules in the practice of engineering.

AGREED AND ACCEPTED:

[Redacted]

Date 7/14/06

Respondent

The Iowa Engineering and Land Surveying Examining Board

[Redacted]

Date 20 July 2006

By: Forrest M Holly, Jr., PE, Chair