

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PROFESSIONAL ENGINEER SECTION
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS
DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
RICHARD D. ZIMMERMAN, : LS0708164ENG
RESPONDENT. :

Division of Enforcement Case No. 06 ENG 021

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Richard D. Zimmerman
7405 Voss Parkway
Middleton, Wisconsin 53562

Professional Engineer Section
Examining Board of Architects, Landscape Architects,
Professional Engineers, Designers and Land Surveyors
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Professional Engineer Section, Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors. The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Richard D. Zimmerman (Date of Birth: February 19, 1942) is duly registered to practice as a professional engineer in the state of Wisconsin (registration number 6-11265). This registration was first granted on April 4, 1969, and is current until July 31, 2008.

2. Mr. Zimmerman's most recent address on file with the Department of Regulation and Licensing (hereinafter Department) is 7405 Voss Parkway, Middleton, Wisconsin 53562.

3. On or about November 15, 2002, the Colorado State Board of Registration for Professional Engineers and Professional Land Surveyors imposed discipline against the license of Mr. Zimmerman to practice as a professional civil engineer in Colorado.

4. The factual basis for the Colorado's Board's action was based on the failure of Mr. Zimmerman to prepare adequate

foundation designs, to independently confirm soil conditions for foundations and to demonstrate that the design to connect the truss to the header could perform satisfactorily. These failures fell below the standard of care and the standard of practice.

5. The Colorado Order required Mr. Zimmerman to pay a fine of \$750.00, comply with all Colorado laws governing the practice of engineering and to not practice engineering in Colorado until he had completed a correspondence course. On June 23, 2003, the Colorado Board stated that Mr. Zimmerman had completed all the terms of the November 15, 2002, Order.

6. A true and correct copy of the Colorado State Board of Registration for Professional Engineers and Professional Land Surveyors Stipulation and Final Agency Order is attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

7. On or about October 9, 2003, the Texas Board of Professional Engineers imposed discipline against the license of Mr. Zimmerman to practice as a professional civil engineer in Texas.

8. The factual basis for the Texas's Board's action was based on the November 15, 2002, Colorado discipline.

9. Mr. Zimmerman consented to an Order that allowed the Texas Board to refuse to renew his Texas engineer license and provided that he would cease any practice of engineering in Texas.

10. A true and correct copy of the Texas Board of Professional Engineers' Consent Order is attached in this document as Exhibit B. Exhibit B is incorporated into this document by reference.

11. Mr. Zimmerman has informed the Department that he has let engineering licenses and registrations in all other states expire and that he is only registered as a professional engineer in the state of Wisconsin. Mr. Zimmerman has also informed the Department that he has retired from the practice of engineering.

12. In resolution of this matter, Richard D. Zimmerman consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Professional Engineers Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction to act in this matter pursuant to Wis. Stat. Sec. 443.11.

2. The Professional Engineers Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is authorized to enter into the attached stipulation, pursuant to Wis. Stat. 227.44(5).

3. By the conduct described in above Findings of Fact, Richard D. Zimmerman violated Wis. Stat. 443.11(1)(d). The examining board may reprimand an architect, registered landscape architect or professional engineer or limit, suspend or revoke the certificate of registration of any registrant, and the certificate of record of any engineer in training, who is found guilty of:

d. Any gross negligence, incompetency or misconduct in the practice of architecture as a registered architect, of landscape architecture as a registered landscape architect, or of professional engineering as a registered professional engineer, or in the professional activity of a holder of a certificate of record as engineer-in-training.

4. Gross negligence in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means the performance of professional services by architect, landscape architect, professional engineer, designer or land surveyor which does not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that the professional knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

5. By the conduct described in above Findings of Fact, Richard D. Zimmerman violated Wisconsin Administrative Code § A-1

8.03(3)(a). "Misconduct in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means an act performed by an architect, landscape architect, professional engineer, designer or land surveyor, in the course of the profession which jeopardizes the interest of the public, including any of the following:

- a. Violation of federal or state laws, local ordinances or administrative rules relating to the practice of architecture, landscape architecture, professional engineering, designing or land surveyor.

6. By the conduct described in above Findings of Fact, Richard D. Zimmerman violated Wisconsin Administrative Code § A-1 8.03(3)(b). "Misconduct in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means an act performed by an architect, landscape architect, professional engineer, designer or land surveyor, in the course of the profession which jeopardizes the interest of the public, including any of the following:

- b. Preparation of deficient plans, drawings, maps, specifications or reports.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the registration of Richard D. Zimmerman to practice as a professional engineer in the state of Wisconsin (registration number 6-19164) is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that Richard D. Zimmerman shall pay the **full assessment of costs** of SIX HUNDRED TWENTY FIVE dollars (\$625.00) of this proceeding.

IT IS ALSO FURTHERED ORDERED that Richard D. Zimmerman shall contact, in writing and within 90 days of the effective date of this order, any professional engineer that currently works for Cleary Building Corporation, or any subsidiary of Cleary Building Corporation, or any person who provides engineering services for Cleary Building Corporation, with the details of this Final Decision and Order. All written correspondence shall include the following language:

It is the responsibility of the engineer of record to determine the applicable building code for the location where the structure will be constructed. It is also the responsibility of the engineer of record to either have knowledge of the soil conditions at the site where the structure will be constructed or obtain such information from a qualified professional engineer.

Copies of all correspondence shall be provided to the Department Monitor within 30 days of the date of mailing.

Payment of the full assessment of costs shall be submitted within 90 days from the date of this order. Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-261-7904

In the event that Mr. Zimmerman fails to abide by the terms and conditions of this Order, then any violation shall be construed as conduct imperiling the health, safety and welfare of the public and shall result in the summary suspension of Mr. Zimmerman's registration to practice as professional engineer (registration number 6-19164) in the state of Wisconsin. The Section in its discretion may in the alternative impose additional terms, conditions and limitations for any violation of this Order.

This Order shall become effective upon the date of its signing.

PROFESSIONAL ENGINEERS SECTION, EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

By Martin J. Hanson
A Member of the Professional Engineers Section

8/16/07
Date

STATE OF WISCONSIN
BEFORE THE PROFESSIONAL ENGINEER SECTION
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS
DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
RICHARD D. ZIMMERMAN, : STIPULATION
RESPONDENT. : LS# _____ ENG

Division of Enforcement Case No. 06 ENG 021

It is hereby stipulated between Richard D. Zimmerman and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (06 ENG 021). Mr. Zimmerman consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Mr. Zimmerman understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Mr. Zimmerman is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.
4. Mr. Zimmerman agrees to the adoption of the attached Final Decision and Order by the Professional Engineer Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (Section). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Mr. Zimmerman waives all rights to any appeal of the Section's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Section, the parties agree not to contend that the Section has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Mr. Zimmerman or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with the Section's deliberations on the Stipulation. Additionally, any such Section advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.
7. Mr. Zimmerman is informed that should the Section adopt this stipulation, the Section's final decision and order is a public record and will be published in accord with standard Department procedure.

8. The Division of Enforcement joins Richard D. Zimmerman in recommending the Professional Engineer Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors adopt this Stipulation and issue the attached Final Decision and Order.

Richard D. Zimmerman
Respondent
7405 Voss Parkway
Middleton, Wisconsin 53562
License Number 6-11265

Date

Claudia Berry Miran
Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935

Date