

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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75

STATE OF WISCONSIN

BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS (ENGINEERS' SECTION)

IN THE MATTER OF THE PROFESSIONAL
ENGINEERS LICENSE OF JOHN E.
CULLINANE, RESPONDENT

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

The above entitled proceeding having come on for hearing before the Professional Engineers' Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors at General Executive Office Facility No. 1, Madison, Wisconsin, on March 21, 1975, pursuant to notice of hearing and the complaint of the Wisconsin Society of Professional Engineers containing the issues involved and charges to be considered, duly served upon the respondent, John E. Cullinane, and respondent having filed answer and having appeared in person and by his attorney, Robert J. Kay, and the Professional Engineers' Section of the Examining Board, represented by Gordon Samuelsen, Assistant Attorney General, having heard the evidence presented by William Dusso, attorney, in support of said charges, and the evidence presented by respondent, in opposition thereto, and the Board having considered the pleadings, testimony, exhibits, arguments and proceedings herein, hereby makes and files its findings of fact, conclusions of law and order, constituting its decision in this matter.

FINDINGS OF FACT

1. That John E. Cullinane, respondent, whose address is 4017 Mineral Point Road, Madison, Wisconsin, is, and was at all times hereinafter mentioned, duly registered by the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors under the provisions of Section 443.01, Wisconsin Statutes, as a professional engineer, Certificate No. E-00513.
2. That the Wisconsin Society of Professional Engineers filed a complaint with this Examining Board against the respondent professional engineer based upon his conviction of a felony.
3. That it has been established by receipt in evidence herein of a certified copy of the record of conviction that John E. Cullinane on January 3, 1974 was convicted, upon his plea of no contest, of the crime of conspiring to restrain trade in violation of secs. 133.01 (1) and (3), Wis. Stats., and was then sentenced to the Wisconsin State Prison for an indeterminate term of not more than two years, which sentence was stayed and respondent was placed on probation in the custody and control of the Department of Health and Social Services and he was fined \$5,000.
4. That respondent was involved in, charged with and convicted of conspiracy to restrain trade, a felony involving the elements of guilty knowledge and fraud and deceit against the public.
5. That respondent did not testify at the hearing herein; that evidence was presented on his behalf that respondent benefited

little from the conspiracy, did not initiate or act as a leader in such conspiracy, gave information regarding the conspiracy voluntarily after being charged and, in general, cooperated with the State of Wisconsin in respect to cases involving other contractors involved in such conspiracy.

CONCLUSIONS OF LAW

That respondent John E. Cullinane was convicted of a felony involving moral turpitude on January 3, 1974 in violation of secs. 133.01 (1) and (3), Wis. Stats., and is subject to penalty as provided by sec. 443.01 (13) (a) 6, Stats.

O R D E R

IT IS ORDERED, that the certificate of registration, No. E-00513, of respondent John E. Cullinane to practice professional engineering in Wisconsin be, and the same hereby is, suspended for six months, said suspension to take effect 30 days from the date of service of this order by certified mail.

Let a copy of these findings of fact, conclusions of law and order be served by certified mail upon John E. Cullinane and upon his attorney.

Dated this 21 day of April, 1975.

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

By

John E. Cullen

THE STATE OF WISCONSIN
DANE COUNTY
(CRIMINAL & TRAFFIC COURTS)

DANE COUNTY } ss.

I, Carolyn Rankin Acting Chief Deputy Clerk of the County Criminal & Traffic Courts, in
and for the County of Dane, and State of Wisconsin, do hereby certify that I have carefully compared the foregoing
and annexed copy of

STATE CRIMINAL DOCKET, VOLUME 209, PAGE 58

JUDGMENT OF CONVICTION

CRIMINAL COMPLAINT & WARRANT

Title:

STATE OF WISCONSIN

versus

JOHN CULLINANE

with the original now on file and of record in my office; and that the same is a true and correct copy of the original, and the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my

hand and affixed the Seal of the Court, at the City
of Madison, in said county, this 17th day of

March, A.D. 197 5.

Carolyn Rankin

Acting Chief Deputy Clerk of County Criminal & Traffic Courts

Beaus

PLAINTIFF'S
DEFENDANT'S

EXHIBIT 1

MAR 21 1975

K. C. CRAMER
COURT REPORTER

JOHN CULLINANE

Complainant

Ernest V. Smith

Hon. Ervin M. Bruner, Judge. Complaint subscribed and sworn to by complainant. Warrant issued by order of P. Charles Jones, Judge, returnable forthwith and delivered by Wendell A. Harker, Wis. Dept. of Justice.

Fees: Arrest, \$ _____, Mileage, \$ _____, Conveying Prisoner, \$ _____, Committing, \$ _____, Attending Court, \$ _____
Assistance, \$ _____, Total, \$ _____

December 6, 1973

Hon. Ervin M. Bruner, Judge. Warrant returned. Defendant arrested. Defendant present in Court with Attorney Robert J. Kay. Daniel A. Milan, assistant attorney general, present in Court on behalf of the State. Court set preliminary hearing for December 13, 1973 at 1:30 P.M. in County Court Branch V. Court set bail at \$5,000 and permitted defendant to sign his own recognizance. Defendant signed.

December 13, 1973

Judge William D. Byrne

Defendant present in Court with Attorney Robert Kay. Daniel Milan, assistant attorney general, present in Court for the State. Joint request by attorneys for a continuance. Defendant waived his right to a preliminary hearing within 20 days. Court ordered case continued until January 3, 1974 at 1:30 P.M.

January 3, 1974

Judge William D. Byrne

Defendant present in Court with Attorney Robert Kay. Daniel Milan, assistant attorney general, present in Court for the State. Defendant waived his right to a preliminary hearing. Defendant entered a plea of no contest. Statement of facts read into the record by Mr. Milan. Court found the defendant guilty. Court adjudged that defendant be fined the sum of \$5000. Court adjudged that defendant be sentenced to the Wisconsin State Prisons for a term of not more than 2 years. The State Prison at Waupun is designated as the Reception Center to which defendant shall be delivered by the Sheriff.

WILLIAMS CO., INC. • MADISON, WIS.

District Attorney
Daniel Mathews

STATE OF WISCONSIN
~~City of Madison~~
Versus

JOHN CULLINANE

Complaint for CONSPIRING TO RESTRAIN TRADE
133.01(1) and (3)

Complainant Ernest V. Smith

Continued from page 58

Court further ordered and adjudged that sentence be stayed and placed defendant on probation to the State Department of Health and Social Services for a period of 2 years. Probation Order completed.
Paid - Receipt #29409.

STATE OF WISCONSIN : COUNTY COURT : DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

vs.

ARREST WARRANT

JOHN E. CULLINANE,


Defendant.

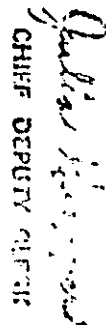
THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER OR
AGENT OF THE WISCONSIN DEPARTMENT OF JUSTICE:

A complaint, a copy of which is attached, having been filed
with me accusing the defendant of committing the crime of con-
spiring to restrain trade, contrary to sec. 133.01 (1) and (3),
Wisconsin Statutes, and I have found that probable cause exists
that the crime was committed by the defendant.

You are, therefore, commanded to arrest the defendant and
bring him before me, or if I am not available, before some other
judge of this county.

Dated this 4th day of December, 1973.


P. CHARLES JONES
County Court Judge, Branch I
Dane County, Wisconsin


CHIEF DEPUTY CLERK

DEC 6 10 11 AM 1973

ORIGINAL FILED
IN THE COUNTY COURT
DANE COUNTY, WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

vs.

CRIMINAL COMPLAINT

DELBERT J. BOMKAMP,
JOHN E. CULLINANE,
RICHARD H. ENGELHART,
JOHN L. FOX,
LENNES E. SCHLOBOHM,

Defendants.

CRIMINAL & TRAFFIC
COURTS
DANE COUNTY, WISCONSIN
FILED
DEC 6 10 11 AM 1973
J. K. K...
CHIEF DEPUTY CLERK

ERNEST V. SMITH, being first duly sworn, on oath says that on or about September 25, 1969, the exact date being unknown to the complainant, and continuing thereafter until at least October 20, 1971, at the City of Madison, in said county, the defendants did feloniously, intentionally engage in a combination in the nature of a conspiracy in restraint of trade or commerce, contrary to sec. 133.01 (1) and (3) of the Wisconsin Statutes, [an offense punishable by a fine of not more than \$5,000 or imprisonment for not more than five years or both, and against the peace and dignity of the State of Wisconsin, and prays that the defendants be dealt with according to law.

AND THAT THE BASIS FOR THE COMPLAINANT'S CHARGE OF SAID OFFENSE IS:

1. As used herein, the term "sewer and water contracting" means engaging in the construction or installation of sewage and water conduits and other excavating, trenching and grading work, and the supply of articles, equipment and materials used in connection therewith.
2. As used herein, the term "sewer and water contractor" means individuals and business entities engaged in sewer and water contracting.
3. Whenever reference is made herein to any act, deed or transaction of any corporation, such allegation shall be deemed to mean that such corporation engaged in such act, deed or transaction by or through its officers, directors, agents,

employees or representatives while they were actively engaged in the management, direction, control or conduct of its business or affairs.

4. Complainant is a Special Agent employed by the Wisconsin Department of Justice, Division of Criminal Investigation, and in such capacity is currently assigned to the investigation of unlawful contracts, combinations and conspiracies in restraint of trade or commerce in conjunction with the John Doe Proceeding in Dane County, Wisconsin, ordered by the Honorable P. Charles Jones, County Court Judge, Dane County, Wisconsin, on July 30, 1973.

5. Complainant bases this complaint on information and belief in that he has ascertained the following facts from reading certified true transcripts of testimony given by certain sewer and water contractors, namely, Stephen F. Garrett, James L. Lunder, Leonard D. Lunder and John K. Walsh, who appeared as witnesses before the Honorable P. Charles Jones, presiding judge of the said Dane County John Doe Proceeding, and the complainant believes the testimony of said witnesses to be truthful and reliable because it was given under oath and pursuant to a grant of immunity from criminal prosecution and because said witnesses were co-conspirators and directly participated in the activities hereinafter described. Complainant has also personally reviewed the bidding procedure utilized by the City of Madison for the solicitation and awarding of sewer and water contracting work, as well as the summaries of bids submitted on said work for the period of September 25, 1969, to October 20, 1971.

6. Between September 25, 1969, and October 20, 1971, the City of Madison periodically conducted bid lettings for sewer and water construction projects to be let by that municipality.

7. Between September 25, 1969, and October 20, 1971, the exact dates being unknown to the complainant, meetings were held periodically at the offices of H. M. Engelhart Company, Inc., and Burch Construction Company, to divide and allocate work among the corporations listed in paragraph number 8, and to establish

bid prices, prior to submitting bids on public sewer and water contracting work to be let by the City of Madison, Wisconsin.

8. Those in attendance at such meetings were:

<u>Individual</u>	<u>Representing</u>	<u>Corporation</u>
Delbert J. Bomkamp		Central Contracting Corporation of America, Oshkosh
John E. Cullinane		Mike Oliver Company, Madison
Richard H. Engelhart		H. M. Engelhart Company, Inc., Madison
John L. Fox		Burch Construction Company, Madison
Lennes E. Schlobohm		Len Schlobohm Excavating, Inc., Madison
Stephen F. Garrett		Monona Road Construction Company, Inc., Madison
James L. Lunder and Leonard D. Lunder		L. S. Lunder Construction Company, Madison
John K. Walsh		J. K. Walsh, Inc., Madison

9. The representatives of the above-stated corporations submitted to the meetings their bid proposals for sewer and water contracting projects to be let by the City of Madison.

10. The submitted bid proposals were averaged and this figure was assigned to one of the above-named corporations, so that it could submit a lower bid than the other said corporations.

11. The other corporations listed above which were to submit bids on the project agreed to submit a higher bid than said average bid.

12. During this same period of time the above-named individuals engaged in a similar course of conduct by use of the telephone and other personal contacts to accomplish the same purpose.

13. These pre-arranged bids were then submitted to the City of Madison for specific sewer and water contracting projects which were let from September 25, 1969, to October 20, 1971.

Ernest V. Smith
Complainant

Subscribed and sworn to before me
this 4th of December, 1973.

P. Charles Jones
P. Charles Jones, Judge

Approved for filing:

Daniel A. Milan
Daniel A. Milan, Assistant Attorney General

Marvin I. Strawn
Marvin I. Strawn, Assistant Attorney General

CRIMINAL & TRAFFIC
COURTS
DAVE COURT, MADISON
1117
DEC 6 10 11 AM 1973
CHIEF DEPUTY CLERK

*Rec'd & Filed
January 22, 1975*

BEFORE THE EXAMINING BOARD OF
ARCHITECTS, PROFESSIONAL ENGINEERS
DESIGNERS AND LAND SURVEYORS
(PROFESSIONAL ENGINEERS SECTION)

[Handwritten Signature]

STATE OF WISCONSIN

* * * * *
In the Matter of the
Professional Engineers
License of
JOHN E. CULLINANE,

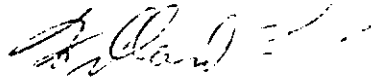
Respondent.
* * * * *

COMPLAINT

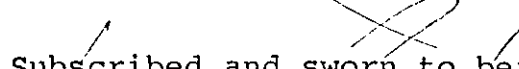
The Wisconsin Society of Professional Engineers, by the
Chairman of its Ethical Review Board, Willard Warzyn, P.E.,
complains against the Respondent and alleges:

1. That the Wisconsin Society of Professional Engineers is an association of persons licensed to practice professional engineering in the State of Wisconsin and is affiliated with the National Society of Professional Engineers.
2. That the Wisconsin Society of Professional Engineers was organized to uphold and advance the honor and dignity of the engineering profession and to promote high standards of ethical conduct among professional engineers.
3. That the Ethical Review Board of the Wisconsin Society of Professional Engineers was created to oversee and coordinate the activities of the Society in the promotion of ethical standards and to take or recommend action, after appropriate investigation, on alleged unprofessional or unethical acts by professional engineers.
4. That Willard Warzyn, P.E., 4212 Jerome Street, Madison, Wisconsin, is the Chairman of the Ethics Review Board of the Wisconsin Society of Professional Engineers and has been authorized by the Board to make this complaint on behalf of the Society.
5. That he is informed and believes that Respondent, John E. Cullinane, 4017 Mineral Point Road, Madison, Wisconsin,

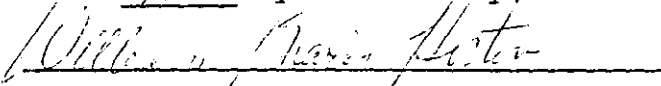
is duly authorized to make this verification, that he has read the foregoing Complaint and knows the contents thereof, that the same is true to his own knowledge, except as to those matters alleged on information and belief, and as to those matters, he believes it to be true.



Willard Warzyn, P.E.



Subscribed and sworn to before me
this 21 day of January, 1975.



Notary Public, State of Wisconsin
My Commission is Permanent

