

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
DAN S. KLING, P.E., :
RESPONDENT :

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Dan S. Kling
3839 Boardwalk Apt. #2
Eau Claire, WI 54701

Examining Board of Architects, Professional Engineers,
Designers and Land Surveyors
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

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 Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Dan S. Kling (D.O.B. 02/23/41); hereinafter referred to as respondent) is duly licensed as a professional engineer in the state of Wisconsin (license # 12898). This license was first granted on May 16, 1972.
2. Respondent's most recent address on file with the Wisconsin Department of Regulation and Licensing is 3839 Boardwalk, Apt. #2, Eau Claire, WI 54701.
3. At all times relevant to this action, respondent was in responsible charge of professional engineering services provided by Cooper Engineering Company to the City of Spooner.
4. Beginning in December, 1982, respondent undertook an engineering study for Spooner leading to a recommendation that a 150,000 gallon water reservoir

be constructed.

5. Plans for the project referred to in paragraph 3, above were completed by October, 1983. The project was completed by December 31, 1985.

6. Respondent failed to obtain written project approval from the Wisconsin Public Service Commission (PSC) for the Spooner water reservoir project, as required by Wis. Stats. sec. 196.49 and Wis. Adm. Code sec. PSC 184. The PSC granted retroactive approval of the project to the city of Spooner by letter dated October 27, 1987.

CONCLUSIONS OF LAW

By the conduct described above, respondent is subject to disciplinary action against his license pursuant to Wis. Stats. sec. 443.11 and Wis. Adm Code sec. A-E 8.03(3)(a).

ORDER

NOW, THEREFORE, IT IS ORDERED that Dan S. Kling, P.E. be, and hereby is, **REPRIMANDED**.

Dated at Madison, Wisconsin this 21 day of September, 1990.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

By: Jane R. Paris
A member of the Board

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

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
DAN S. KLING, P.E.,	:	
RESPONDENT	:	

It is hereby stipulated between Dan S. Kling, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation shall be presented directly to the Engineers Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors in resolution of the above-captioned disciplinary proceedings.

2. Mr. Kling 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 clear, satisfactory and convincing 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. Kling agrees to the adoption of the attached Final Decision and Order by the Board.

4. If the Board accepts the terms of this Stipulation, 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. If the terms of this Stipulation are not acceptable to the Board, 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.

5. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Architects, Professional Engineers, Designers and Land Surveyors for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers & Land Surveyors.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers & Land Surveyors.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers & Land Surveyors.

The date of mailing of this decision is September 26, 1990.

WLD:dms
886-490