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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
TERRY L. KOLBERG, :
RESPONDENT. : LS0504133ARC

Division of Enforcement Case No. 04 ARC 008

The parties to this action for the purpose of Wis. Stats. §227.53 are:

Terry L. Kolberg
907 Western Road
Madison, WI 53705

Examining Board of Architects, Landscape Architects,
Professional Engineers, Designers, and Land Surveyors;
Architect Section
P.O. Box 8935
Madison, WI 53708

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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Architect Section (Section). 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. Terry L. Kolberg ("Respondent"), date of birth May 26, 1955, was issued a registration as an Architect in the State of Wisconsin on July 30, 1985, having registration number 5783-5.
2. Respondent's last reported address on file with the Department of Regulation and Licensing is 907 Western Road, Madison, WI 53705.
3. Respondent's Architect registration expired on July 31, 1998.
4. Respondent now seeks reinstatement of his Architect registration, pursuant to Wis. Admin. Code § A-E 2.05(2).
5. Respondent contends that he did not become aware that his Architect credential was expired until August,

2004, when he received a telephone call from the Wisconsin Office of the American Institute of Architects informing him that his name had appeared on a list of “inactive” architects. Respondent then checked the Department of Regulation and Licensing website and saw that his registration was listed as “inactive,” and he paid the \$60.00 renewal fee and \$25.00 late fee online on August 28, 2004.

6. The following business day, Respondent called the Department and described his situation, and was told he needed to file an application for reinstatement. Respondent’s complete application for credential reinstatement was received by the Department of Regulation and Licensing on October 8, 2004.

7. In November, 2004, Respondent’s application for credential reinstatement was referred to the Division of Enforcement to determine whether Respondent had engaged in the practice of architecture since the expiration of his Architect registration on July 31, 1998, and a Division of Enforcement case was formally opened against Respondent on December 30, 2004.

8. Respondent contends that he never received a renewal notice from the Department of Regulation and Licensing in 1998, nor any subsequent notice or correspondence from the Department informing him that his Architect registration had expired. Respondent maintains that if he had received a renewal notice, he certainly would have timely renewed as he had done at all other times since receiving his Architect credential in 1985.

9. The Department’s practice and procedures relating to credential renewal is that a renewal notice is mailed to the licensee prior to the credential expiration at the last known address on file with the Department. If a licensee fails to renew his or her credential, the Department does not submit any further renewal notices to the licensee.

10. Respondent acknowledges that his claim of never receiving a renewal notice from the Department is not a valid legal defense for his failure to renew his Architect registration and acknowledges that it is his responsibility, and his alone, to keep his registration current under Wis. Stat. § 440.08(1).

11. From July 31, 1998 until the end of August, 2004, while Respondent’s Architect registration was in expired status, Respondent was engaged in the practice of architecture, including placing his Architect seal on plans, drawings, documents, specifications and/or reports during this time.

12. Upon discovering in August, 2004, that his Architect registration was in expired status, Respondent has curtailed his practice by taking the following measures:

- He has ceased using his Architect stamp—he has not stamped or signed any architectural plans;
- He has ceased submitting plans to the State of Wisconsin;
- He has ceased using the title “Architect;”
- He has ceased from having any projects under his direct supervision;
- He has delegated all activities requiring a licensed architect to the other licensed architect in his firm

13. The Section has reviewed Respondent’s application for reinstatement of his Architect registration and has determined that Respondent meets the requirements of Wis. Admin. Code § A-E 2.05(2)(a) and is competent to practice Architecture in Wisconsin.

CONCLUSIONS OF LAW

1. The State of Wisconsin Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction to act in this matter and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 443.02(1) – (3), Wis. Admin. Code § A-E 2.05(2)(b) and Wis. Stat. § 227.44(5).

2. Wis. Stat. § 443.02(2) provides:

443.02 Practice requirements and registration: general provisions.

(2) No person may practice architecture . . . in this state unless the person has been duly registered, is exempt under s. 443.14 or has in effect a permit under s. 443.10(1)(d).

Respondent's practice of architecture while his registration has been expired is a violation of Wis. Stat. § 443.02(2).

3. Wis. Stat. § 440.08(1) provides:

440.08 Credential Renewal. (1) Notice of Renewal. The department shall give a notice of renewal to each holder of a credential at least 30 days prior to the renewal date of the credential. Notice may be mailed to the last address provided to the department by the credential holder or may be given by electronic transmission. Failure to receive a notice of renewal is not a defense in any disciplinary proceedings against the holder or in any proceeding against the holder for practicing without a credential. Failure to receive a notice of renewal does not relieve the holder from the obligation to pay a penalty for late renewal under sub.(3). (emphasis added).

Respondent's claim that he failed to receive a notice of renewal for his Architect registration is not a defense to his practicing architecture without being registered.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED:

1. That Respondent Terry L. Kolberg, registration number 5783-5, be and hereby is **REPRIMANDED**.

2. That Respondent shall, within thirty (30) days from the date of this Order pay the missed renewal fees for 1998, 2000 and 2002, plus 12% interest per year, totaling **TWO HUNDRED TWENTY-TWO DOLLARS AND SIXTY CENTS (\$222.60)**, and calculated as follows:

1998	$\$44 \text{ renewal fee} + (12\% \text{ of } \$44 \times 6 \text{ years of interest}) = \$44 + (\$5.28 \times 6) =$	\$75.68
2000	$\$49 \text{ renewal fee} + (12\% \text{ of } \$49 \times 4 \text{ years of interest}) = \$49 + (\$5.88 \times 4) =$	\$72.52
2002	$\$60 \text{ renewal fee} + (12\% \text{ of } \$60 \times 2 \text{ years of interest}) = \$60 + (\$7.20 \times 2) =$	\$74.40
	TOTAL =	\$222.60

Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817

3. That Respondent shall, within one hundred twenty (120) days from the date of this Order, pay **COSTS** of this proceeding in the amount of **ONE THOUSAND ONE HUNDRED AND THIRTY DOLLARS (\$1,130.00)**. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

4. IT IS FURTHER ORDERED that the Architect registration of Terry L. Kolberg, registration #5783-5, be, and hereby is, **REINSTATED**.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. In its discretion the Section may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs and renewal fees set forth above, Respondent's license (#5783-5) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

ARCHITECT SECTION

By:	James Hubrttus	4-13-05
	A member of the Section	Date