

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: **FINAL DECISION AND ORDER**
EARL F. MCKINNEY :
: **LS0511107ENG**
RESPONDENT :

Division of Enforcement Case File #: **02 ENG 009**

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

Earl F. McKinney
3171 Roxburg Drive
Lexington, KY 40503

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

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

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 Professional Engineering 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. Earl F. McKinney ("Respondent"), date of birth 12/25/33, is registered in the State of Wisconsin as a professional engineer with limitations having license #06-16262. This license was first granted on 01/28/77.
2. Respondent's last reported home address on file with the Department of Regulation and Licensing ("Department") is 3171 Roxburg Drive, Lexington, Kentucky 40503.
3. Respondent is President of a company called A & E Designers, Incorporated ("A & E Designers"). A & E Designers is a company that works on architectural and engineering projects throughout the United States. Respondent has

been President of A & E Designers since 1999.

4. The current address on file with the Department for A & E Designers is: 2020 Liberty Road, Lexington, Kentucky 40505.

5. On or about July 19, 2002, the Department received a complaint stating that on or about June 27, 2002, Respondent's Kentucky professional engineering credential had been revoked by the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors ("Kentucky State Board"). The findings of the Kentucky State Board were based on an Administrative Action Hearing held in Frankfort, Kentucky on November 5, 6, and 7, 2001. The Hearing involved the Kentucky State Board as the Complainant and Earl F. McKinney as the Respondent.

6. The Chief Hearing Officer determined that the Respondent made untruthful statements connected to practicing as a professional engineer. Those statements included:

Statements to the National Council of Examiners for Engineers and Surveying (NEECS) in 1988 and 1989 by the Respondent that he was not presently under investigation by any state, when he was actually under investigation by the Texas Board of Registration for Professional Engineers ("Texas Board").

Statements to the NEECS by the Respondent that he had not received any public reprimands by any state when in fact, his license had been suspended and he had been publicly reprimanded by the Texas Board in 1989.

Statements by the Respondent that he was registered as an electrical engineer in an application submitted to the Board of Registration for Professional Engineers and Land Surveyors in California on September 20, 1995. This statement by the Respondent was also made before the Nevada Board ("Nevada Board") of Professional Engineers on January 17, 1997.

Statements by the Respondent before the Nevada Board that in January 1997, he had nine engineers working at his company, when indeed the accurate number was five.

7. On or about November 5, 6, 7, 2001, the Chief Hearing Officer determined that the Respondent had also signed and sealed documents inappropriately. Respondent was found to have engaged in the following conduct:

Signing and sealing engineering plans without reviewing the plans in a professional manner;

Signing and sealing a land survey boundary plat when he was not licensed as a land surveyor.

8. The Wisconsin Department's investigation further revealed that the Respondent has been disciplined in other states in conduct similar to that of the Kentucky State Board discipline. States in which the Respondent has been disciplined include: Tennessee, Georgia, Hawaii, North Carolina, South Carolina, Vermont, California, Florida, Montana, Massachusetts and Virginia.

9. Additionally, the Respondent failed to notify the Department of the following disciplinary actions that he has received: Kentucky, Georgia, Vermont, Florida, California, Montana, Virginia, Massachusetts, and the 2002 and 2003 Texas disciplines.

10. On or about November 15, 1991, the Professional Engineers Section took disciplinary action against the Respondent's Wisconsin professional engineering credential. The disciplinary action was based on the Texas Board's three year probationary suspension of the Respondent's license in 1989. The Section determined that the Respondent's disciplinary action was for the same term as the suspension in Texas, but the suspension was stayed on the condition that the Respondent comply with Texas probation.

11. In resolution of this matter, Earl F. McKinney consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

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

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

3. Respondent Earl F. McKinney has violated:

- a. Wisconsin Administrative Code §§ A-E 8.03 (3)(a) and 8.09 (1) by violating state laws and administrative rules relating to the practice of professional engineering;
- b. Wisconsin Administrative Code §§ A-E 8.03 (3)(b), 8.06 (1) and 8.10(2) by preparing deficient plans, drawings, maps, specifications or reports without adequate review;
- c. Wisconsin Administrative Code § A-E 8.03 (3)(d) by misrepresenting qualifications such as education, specialized training or experience to other professional regulation and licensing state boards;
- d. Wisconsin Administrative Code § A-E 8.04 (3) by performing professional engineering services that he was not qualified to perform by education or experience without retaining the services of another who is qualified;
- e. Wisconsin Administrative Code § A-E 8.08(1) by failing to furnish the Professional Engineers Section with information that he had been disciplined in several other states over the last four years.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that the **VOLUNTARY SURRENDER** of Respondent Earl F. McKinney's Professional Engineers registration # 06-16262 is hereby accepted.

IT IS FURTHER ORDERED, that Respondent Earl F. McKinney, will not practice or attempt to practice as a professional engineer in the State of Wisconsin when not currently registered as a professional engineer.

IT IS FURTHER ORDERED, that Respondent Earl F. McKinney shall pay costs in this matter in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**.

IT IS FURTHER ORDERED, that a down payment of **ONE THOUSAND DOLLARS (\$1,000.00)** shall be submitted within (60) days from the date of this order and one more payment of **ONE THOUSAND DOLLARS (\$1,000.00)** will be due three months from the previous payment until the full **TWO THOUSAND DOLLARS (\$2,000.00)** is paid. Payments 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
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264**

IT IS FURTHER ORDERED, that file, **02 ENG 009** be, and hereby is, closed as to all Respondents.

Dated this 10th day of November, 2005.

PROFESSIONAL ENGINEERS SECTION

By: Lynda Farrar
A member of the Section