

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
KENT E. HALUSKA,	:	LS08111921RHI
RESPONDENT	:	

Division of Enforcement Case Number: 08 RHI 012

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

Kent E. Haluska
P.O. Box 12594
Green Bay, WI 54307

Department of Regulation and Licensing
Office of the Secretary
P.O. Box 8935
Madison, WI 53708-8935

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

PROCEDURAL HISTORY

The Division of Enforcement, Department of Regulation and Licensing (Department), has opened an investigation against Respondent. The parties in this matter agree to the terms and conditions of this Final Decision and Order and the attached Stipulation as the final disposition of this matter, subject to the approval of the Secretary of the Department of Regulation and Licensing. The Secretary has reviewed this Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Kent E. Haluska (Haluska), whose date of birth is April 22, 1982, is registered to practice as a home inspector (#106-2115) in the State of Wisconsin. The registration was first granted on July 27, 2007, and will expire on December 14, 2008. Mr. Haluska’s last address reported to the Department of Regulation and Licensing is P.O. Box 12594, Green Bay, WI 54307.
2. On April 5, 2007, Mr. Haluska signed an application to sit for the examination for registration as a home inspector. The application contained the following question: “Have you ever been convicted of a misdemeanor or a felony...?” Mr. Haluska answered the question by checking the “NO” box.
3. On February 8, 2005, Mr. Haluska was convicted of a misdemeanor crime, after entering a plea of guilty to one count of violating Wis. Stat. § 813.12(8), Knowingly Violating a Domestic Abuse Order.
4. On August 7, 2008, Mr. Haluska was convicted of a misdemeanor crime, after entering a plea of no contest to three counts of violating Wis. Stat. § 942.01(1), Defamation. A review of the criminal complaint shows that Mr. Haluska

made defamatory statements about a competing real estate broker. Sentencing was withheld, and Mr. Haluska was placed on probation for 18 months. Additionally, Mr. Haluska was barred from working in the “real estate industry” for one year, commencing August 21, 2008.

5. Per Wis. Stat. § 440.978(2), “the department may reprimand a home inspector or deny, limit, suspend or revoke a certificate under this subchapter if the department finds that the applicant or home inspector has done any of the following: (a) Made a material misstatement in an application for a certificate or renewal of a certificate. (c) ...been arrested or convicted of an offense committed while registered under this chapter.”

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in these matters pursuant to Wis Stat. § 440.978.

2. The Wisconsin Department of Regulation and Licensing has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).

3. By answering “no” to the question of whether he had ever been convicted of a misdemeanor crime on an application submitted to the Department, Respondent **Kent E. Haluska** violated Wis. Stat. § 440.978(2)(a), thereby subjecting himself to discipline.

4. By being convicted of a misdemeanor crime, the circumstances of which substantially relate his registration as a home inspector, Respondent **Kent E. Haluska** violated Wis. Stat. § 440.978(2)(c), thereby subjecting himself to discipline.

WHEREFORE, the Department of Regulation and Licensing makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The registration of **Kent E. Haluska** as a home inspector (#106-2115) shall be, and hereby is, **REVOKED**. Mr. Haluska shall return all indicia of licensure, which are currently in his possession, to the Department of Regulation and Licensing within twenty (20) days of the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. **Kent E. Haluska** shall pay costs of these investigations in the amount of TWO HUNDRED AND FIFTY DOLLARS (\$250.00). Costs shall be immediately due and owing on the date that the Department of Regulation and Licensing receives any application for any license administered by the Department.

3. Payment of costs and other submissions required by this Order shall be mailed, delivered or otherwise transmitted to:

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

4. Case number 08 RHI 012 is hereby closed.

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

DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson, Secretary

11/19/08

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	
KENT E. HALUSKA,	:	LS# _____ RHI
RESPONDENT	:	

Division of Enforcement Case Number: 08 RHI 012

It is hereby stipulated and agreed, by and between Kent E. Haluska, Respondent; and Mark A. Herman, Attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent’s licensure by the Division of Enforcement (Case No. 08 RHI 012). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to seek legal counsel prior to signing this stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Regulation and Licensing (Department). 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. Respondents waive all rights to any appeal of the Department's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Department, 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 Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by 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 Wisconsin Department of Regulation and Licensing ever assigned as an advisor in this investigation may appear before the Department in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Department may have in connection with the Department’s deliberations on the Stipulation. Additionally, any such Department advisor may vote on whether the Department should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Department adopt this Stipulation, the Department’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.

KENT E. HALUSKA

Respondent

P.O. Box 12594

Green Bay, WI 54307

Date

MARK A. HERMAN

Attorney, Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708-8935

Date