

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PROFESSIONAL ENGINEER 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
REFAT A. MAGHARIOUS, :
RESPONDENT. : *ORDER 0000609*

Division of Enforcement Case File 09 ENG 001

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

Refat A. Magharios
6355 Waterford Court
Hinsdale, IL 60527

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

Wisconsin 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 disposition of this matter, subject to the approval of the Professional Engineer Section (Section) of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors. 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. Respondent Refat A. Magharios is licensed in the state of Wisconsin as a Professional Engineer, license number 6-28273. This license was first granted to Mr. Magharios on November 15, 1991 and it is current through July 31, 2012.

2. The most recent address on file with the Wisconsin Department of Regulation and Licensing for Mr. Magharious is 6355 Waterford Court, Hinsdale, IL 60527.

3. On or about January 21, 2009, the Department received a complaint alleging mistakes and inadequacies in a report prepared by Refat A. Magharious. A Division of Enforcement case was subsequently opened for investigation.

4. The Department's investigation revealed that Respondent Magharious prepared a report on the amount of rainwater runoff for a property owner, N.B., who was seeking a stormwater management permit (permit) for piping that had been placed during the construction of N.B.'s new home. The Walworth County Land Use and Resource Management Department required calculations and plans from a certified engineer to ensure that the stormwater velocity was reduced to pre-construction levels. Mr. Magharious prepared a report entitled "Engineering Analysis For Velocity Through Pipe at N7611 East Lakeshore Drive Whitewater, WI 53190" to obtain approval for the permit. The report was signed by Mr. Magharious and dated July 16, 2008. Mr. Magharious' professional engineer stamp was placed on a signed letter accompanying the report, dated July 16, 2008.

5. Mr. Magharious submitted the engineering analysis report prepared for N.B. to the Walworth County Land Use and Resource Management Department to determine the velocity of rainwater through N.B.'s drainage pipe and prove that the pipe would not adversely affect adjacent property owners.

6. Mr. Magharious submitted a signed letter dated July 16, 2008 to David P. Duwe of the Walworth County Land Use and Resource Management Department. The letter contains Mr. Magharious' stamp and states, in full:

Dear Mr. Duwe,

I have reviewed the drawings, calculations and attachments of the enclosed "Engineering Analysis for velocity flow though pipe at N7611 E. Lakeshore Drive Whitewater, WI[.]"

I certify and approve that they are correct according to sound engineering principals, codes and laws of the state of Wisconsin.

Sincerely,

Refat Magharious P.E.

7. In a letter to N.B. dated December 29, 2008, Mr. David Duwe of the Walworth County Land Use and Resource Management Department stated, in part:

Refat Magharious, Wisconsin Professional Engineer (E-28273), provided an engineering analysis for the velocity through the drainage pipe. Walworth County does not have an engineer on staff to review the analysis conducted. We rely on the state license to insure [sic] accuracy. Your pipe has not created a chronic wetness problem or exceeded the safe capacity of the existing drainage system.

Mr. Duwe approved the permit for the existing drainage pipe.

8. During a July 6, 2010 telephone conference with the Department Investigator assigned to this case, Mr. Magharious stated that he did not perform any calculations or engineering in producing his report. Mr. Magharious further stated that he did not believe this case involved a wastewater problem so he did not study that issue. In addition, Mr. Magharious admitted that he had no experience in either waste or stormwater.

9. During the July 6, 2010 telephone conference, Mr. Magharious admitted that he did not believe the report he submitted to the Walworth County Land Use and Resource Management Department was an engineering report. Mr. Magharious further admitted that he did not perform any research when he prepared the report other than to look at ten years of rainfall reports for the area.

10. In a letter to the Wisconsin Department of Regulation and Licensing (Department) dated July 7, 2010, Mr. Magharious stated that “no inspection was done” and further stated that the “report was gathered information from public resources.” Mr. Magharious admitted that the type of engineering he normally does is shoring, concrete forming, and structure design.

11. In resolution of this matter, Respondent Refat A. Magharious consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Professional Engineer 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, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By producing a report containing the deficiencies described in the Findings of Fact, Refat A. Magharious has violated:

a. Wis. Admin. Code § A-E 8.04(3) by performing services which the Respondent was not qualified to perform by education or experience without retaining the services of another who is qualified;

b. Wis. Admin. Code § A-E 8.06(1) by failing to use reasonable care and competence in providing professional services; and

c. Wis. Admin. Code § A-E 8.09(1) by his failure to comply with the requirements of ch. A-E 8.

3. As a result of the violations noted in the Conclusions of Law, Refat A. Magharious is subject to discipline pursuant to Wis. Stat. § 443.11(1)(d) and (e).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Refat A. Magharious is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. Respondent Refat A. Magharious shall, within 90 days of the date of this Order, pay **COSTS** in the amount of SIX HUNDRED FIFTY DOLLARS (\$650.00).
3. Payment of costs shall be made 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) 267-3817, Fax (608) 266-2264

4. 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. The Section in its discretion 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 as ordered and as set forth above, the Respondent's license (number 6-28273) may, in the discretion of the Section or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Dated this 20 day of January, 2011.

WISCONSIN PROFESSIONAL ENGINEER SECTION

By: _____
