

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID A. MILES,  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
:  
:

0003627

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Division of Legal Services and Compliance Case No. 13 RHI 152

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

David A. Miles  
630 Fairview Rd., Apt. 195  
Simpsonville, SC 29680

Wisconsin Department of Safety and Professional Services  
P.O. Box 8368  
Madison, WI 53708-8368

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

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 Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent David A. Miles (dob April 6, 1957) is registered in the State of Wisconsin as a home inspector, having registration number 727-106, first issued on July 15, 1999 and expired on December 15, 2014. David A. Miles' most recent address on file with the Department is 630 Fairview Rd., Apt. 195, Simpsonville, SC 29680.

2. On April 6, 2013, a Buyer entered into an Offer to Purchase a home in New Richmond, WI. The offer contained an inspection contingency.

3. On May 13, 2013, Respondent performed an inspection of the New Richmond, WI home.
4. Respondent's inspection report did not describe the condition of the home's foundation or columns or explain why such a description was omitted.
5. The Buyer subsequently discovered the foundation and columns needed repair but any attempt to perform the repairs could cause the home's structure to collapse.
6. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.978, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. By failing to observe and describe the condition of the foundation and columns, David A. Miles violated Wis. Stat. § 440.975(2) and Wis. Admin. Code § SPS 134.02(1) (now SPS 131.31(1)) by failing to perform a reasonably competent and diligent home inspection.
3. As a result of the above violations, David A. Miles is subject to discipline pursuant to Wis. Stat. § 440.978(2)(m).

#### ORDER

1. The attached Stipulation is accepted.
2. The VOLUNTARY SURRENDER of the right to renew David A. Miles' home inspector registration (no. 727-106) is ACCEPTED.
3. Respondent shall not re-apply for registration for a period of at least five years from the date of this Order.
4. Should Respondent re-apply for registration:
  - a. Respondent shall pay the costs of this matter in the amount of \$390, before any such application may be considered.
  - b. Respondent shall submit a new application for registration and meet all requirements for obtaining registration, which exist at the time of the application.
  - c. The Department may determine whether and under what terms such a registration may be granted.
5. Violation of any terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a revocation of Respondent's right to re-apply for registration. In its discretion the Department may, in the alternative, impose additional

conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

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

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

by:

  
\_\_\_\_\_  
Michael J. Berndt, Chief Legal Counsel  
On Behalf of the Department

1/15/15  
Date

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID A. MILES,  
RESPONDENT.

:  
:  
:  
:  
:

STIPULATION

0003627

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Division of Legal Services and Compliance Case No. 13 RHI 152

Respondent David A. Miles and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (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. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

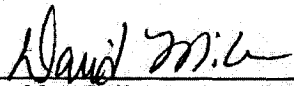
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

Division of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

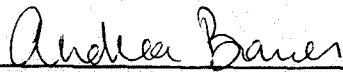
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

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 Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.

  
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David A. Miles, Respondent  
630 Fairview Rd., Apt. 195  
Simpsonville, SC 29680  
Registration no. 727-106

1-13-15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Andrea E. Brauer, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

1-13-15  
\_\_\_\_\_  
Date