

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

JOSHUA J. BELOW,
RESPONDENT.

:
: FINAL DECISION AND ORDER
:
:

0005405

Division of Legal Services and Compliance Case No. 15 COM 154

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

Joshua J. Below
390 Nygaard Street
Oregon, WI 53575

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

Division of Legal Services and Compliance
Wisconsin 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 adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Joshua J. Below is licensed in the State of Wisconsin as a Master Plumber, having license number 230994, first issued on January 30, 2014, and current through March 31, 2019. Respondent's most recent address on file with the Department is 5021 W. Netherwood Road, Oregon, Wisconsin 53575.
2. On September 14, 2013, Respondent suffered a brain injury in a motor vehicle accident.
3. Respondent's time frame for recovery from the brain injury is five to seven years.

4. As a result of the brain injury, Respondent currently cannot competently practice as a Master Plumber.

5. Respondent's mother, Debra Below, was appointed as his legal guardian.

6. Debra Below asserted that Respondent has not practiced as a Master Plumber since September 2013, when he sustained his brain injury.

7. In 2015, Respondent completed his online renewal test for his Master Plumber's license. Debra Below asserted that Respondent took the online renewal exam himself.

8. 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. § 145.10, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.

2. Respondent shall not practice as a Master Plumber until he demonstrates to the Department's satisfaction that he is competent and capable of performing as a Master Plumber. Practicing as a Master Plumber includes the construction, connection, installation, service or repair of any plumbing that falls within the scope of Wis. Stat. § 145.01(10)(a), the supervision of any construction, connection, installation, service or repair of any plumbing that falls within the scope of Wis. Stat. § 145.01(10)(a), and pulling permits using a Master Plumber license. This order does not forbid Respondent from performing manual labor associated with plumbing, such as trenching, carrying plumbing materials to the job site, or site preparation.

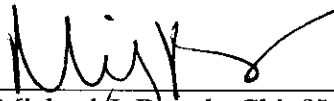
3. Respondent may practice plumbing under the direct supervision of a Master Plumber once the following has occurred: successful completion of the Master Plumber renewal test in a proctored setting; written acknowledgment from a Master Plumber that such Master Plumber agrees to directly supervise the Respondent while the Respondent practices plumbing, and; that the Respondent provides such written acknowledgment to the Department prior to performing any plumbing under the direct supervision of a Master Plumber.

4. Respondent may practice plumbing under his Master Plumber's license only after he has demonstrated to the Department's satisfaction that he is able to competently practice as a Master Plumber. The Department may request any information from the Respondent necessary to determine competency. Any decision on whether competency has been established is left to the sole discretion of the Department's Chief Legal Counsel.

5. Violation of any of the terms of this Order may lead to immediate suspension of Respondent's license. The Department in its discretion may in the alternative impose additional conditions and limitations or other 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

8/16/17
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

JOSHUA J. BELOW,
RESPONDENT.

STIPULATION

0005405

Division of Legal Services and Compliance Case No. 15 COM 154

Respondent Joshua J. Below 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 Department 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. 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.


Joshua J. Below, Respondent
390 Nygaard Street
Oregon, WI 53575

8817
Date


Debra Below, Respondent's Legal Guardian
390 Nygaard Street
Oregon, WI 53575

8-4-17
Date


Zachary Hetfield, Attorney
State Bar Number 1098681
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 266-9814
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8/14/17
Date