

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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**Before the  
State of Wisconsin  
Joint Examining Board of Architects, Landscape Architects, Professional  
Engineers, Designers and Land Surveyors**

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In the Matter of Disciplinary Proceedings Against  
Paul C. Grimes, Respondent

FINAL DECISION AND ORDER

Order No. **ORDER 0006507**

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**Division of Legal Services and Compliance Case No. 17 ARC 019**

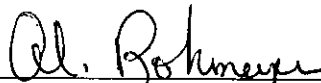
The State of Wisconsin, Joint Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

**ORDER**

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Joint Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 18<sup>th</sup> day of October, 2019.



Member

**DSPS Chief Legal Counsel,  
Delegatee**

Joint Examining Board of Architects, Landscape  
Architects, Professional Engineers, Designers and  
Land Surveyors



**Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of Disciplinary Proceedings  
Against Paul C. Grimes, Respondent

DHA Case No. SPS-18-0056  
DLSC Case No. 17 ARC 019

---

**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Paul C. Grimes  
1200 W. Lake Drive  
Cary, IL 60013

The Architect Section of the Wisconsin Examining Board of Architects, Landscape  
Architects, Professional Engineers, Designers, and Professional Land Surveyors  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

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

**PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Complaint against Respondent Paul C. Grimes (Respondent). The Complaint alleged that Respondent's license was subject to disciplinary action pursuant to Wis. Stat. § 443.11(1) because Respondent violated Wis. Admin. Code § A-E 8.08(3) by failing to respond in a timely manner to Department requests for information in conjunction with an investigation of a complaint against him.

The Division served Respondent on December 18, 2018, by sending a copy of the Notice of Hearing and Complaint to the address on file with the Department by both certified and

regular mail, consistent with Wis. Admin. Code § SPS 2.08. Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09(4). Respondent appeared for the telephone prehearing conference held before the Division of Hearings and Appeals on March 11, 2019. During the prehearing conference, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 due to Respondent's failure to file an Answer to the Complaint. The undersigned Administrative Law Judge (ALJ) denied the motion and provided Respondent with an extension in which to file an Answer to March 25, 2019.

Respondent failed to file an Answer by March 25, 2019. On April 4, 2019, the Division again moved for default pursuant to Wis. Admin. Code § SPS 2.14 via email to the ALJ and Respondent. In light of Respondent's failure to file an Answer to the Complaint, the ALJ found Respondent to be in default and issued a Notice of Default and Order on April 16, 2019. Consistent with the Notice, the Division filed a recommended proposed decision and order on April 29, 2019.

## FINDINGS OF FACT

### Facts Related to the Alleged Violations

Findings of Facts 1-9 are set forth in the Division's Complaint against Respondent filed in this matter.

1. Respondent Paul C. Grimes is licensed in the State of Wisconsin to practice as an architect, having registration number 9216-5, first issued on September 11, 2001 and expired on August 1, 2018.

2. The Department's most recent address on file for Respondent is 1200 West Lake Drive, Cary, Illinois 60013.

3. In 2016, the Department initiated an audit of registered Architect continuing education (CE) for the 2014-2016 biennial registration period (August 1, 2014 to July 31, 2016).

4. On August 29, 2016, the Department mailed notification of the audit to Respondent's address of record and requested proof of his CE hours by September 26, 2016.

5. Respondent did not respond to the audit request.

6. A Department investigator attempted to contact Respondent by telephone on January 5 and February 9, 2018 using Respondent's telephone number of record.

7. On April 5, 2018, the investigator spoke with Respondent, who indicated that he had never received notice of the audit, that his mailing address of record was outdated, and that he was unsure if he retained proof of his CE compliance for the 2014-2016 biennial registration period. Respondent provided the investigator with his updated mailing address and confirmed that his email address of record was accurate.

8. Between April 5, 2018, and July 5, 2018, a Department investigator attempted to contact Respondent one time using his telephone number of record, six times using his email address of record, and three times using his updated mailing address of record to request a response to the audit. No response was received from Respondent.

9. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew his architect registration through July 31, 2023.

#### Facts Related to Default

10. The Complaint and Notice of Hearing in this matter were served on Respondent on December 18, 2018, by both certified and regular mail consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing advised Respondent: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Section may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

11. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

12. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 22, 2019, which was subsequently rescheduled to February 13, 2019, at 2:30 pm. The Notice rescheduling the prehearing conference informed Respondent that he was required to provide a telephone number at which he could be reached for the conference no later than February 8, 2019 and that failure to appear at a conference could result in default being entered against Respondent. Respondent failed to provide a telephone number. The Division provided a telephone number for Respondent by email dated February 13, 2019. The ALJ issued a Notice on February 14, 2019 rescheduling the prehearing conference for February 25, 2019 at 9:45 am. The Notice informed Respondent of the telephone number provided by the Division and instructed Respondent that if the number was incorrect, he must provide a correct number prior to the February 25, 2019 prehearing conference. Due to problems with the Division's telephone system on February 25, 2019, the ALJ informed Respondent on that date that the prehearing conference would be rescheduled to March 11, 2019, at 9:00 am.

13. At the prehearing conference held on March 11, 2019, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 based on Respondent's failure to file an Answer. The ALJ denied the motion and allowed additional time for Respondent to file an Answer.

14. In a Notice of Telephone Status Conference and Order dated March 11, 2019, the ALJ indicated that if Respondent failed to file an Answer by March 25, 2019, the ALJ would grant a motion for default.

15. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

16. By email to the ALJ and Respondent dated April 4, 2019, the Division renewed its motion for default pursuant to Wis. Admin. Code § SPS 2.14.

17. On April 16, 2019, the ALJ issued a Notice of Default and Order, requiring the Division to serve no later than April 30, 2019, a recommended proposed decision and order.

18. The Division timely filed its recommended proposed decision and order on April 29, 2019.

19. Respondent did not file a response to the Notice of Default and Order or to the Division's recommended proposed decision and order.

## DISCUSSION AND CONCLUSIONS OF LAW

### Default

As stated in the April 16, 2019, Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint. Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14.

### Violations of Wis. Admin. Code § A-E 8.08(3)

The Division alleges that Respondent is subject to discipline pursuant to Wis. Stat. § 443.11(1)(d), which states, in relevant part: "The appropriate section of the examining board may reprimand an architect . . . or limit, suspend, or revoke the certificate of registration of any registrant . . . who is found guilty of . . . (d) Any gross negligence, incompetency or misconduct in the practice of architecture as a registered architect. . . ."

Wisconsin Admin. Code § A-E 8.03(3)(a) provides that "misconduct in the practice of architecture" means "an act performed by an architect . . . in the course of the profession which jeopardizes the interest of the public, including any of the following: (a) Violation of federal or state laws, local ordinances or administrative rules relating to the practice of architecture. . . ."

Wisconsin Admin. Code § A-E 8.08(3) states that an architect "[s]hall respond in a timely manner to a request by the board, a section of the board or the department for information in conjunction with an investigation of a complaint filed against a registrant or licensee." This provision further states that "[t]here is a rebuttable presumption that a registrant or licensee who takes longer than 30 days to respond to a request for information has not acted in a timely manner."

The undisputed facts establish that in 2016 the Department initiated an audit of registered Architect continuing education (CE) for the 2014-2016 biennial registration period (August 1, 2014 to July 31, 2016). On August 29, 2016, the Department mailed notification of the audit to Respondent's address of record and requested proof of his CE hours by September 26, 2016. Respondent did not respond to the audit request. A Department investigator attempted to contact Respondent by telephone on January 5 and February 9, 2018 using Respondent's telephone number of record. On April 5, 2018, the investigator spoke with Respondent, who indicated that he had never received notice of the audit, that his mailing address of record was outdated, and that he was unsure if he retained proof of his CE compliance for the 2014-2016 biennial

registration period. Respondent provided the investigator with his updated mailing address and confirmed that his email address of record was accurate. Between April 5, 2018, and July 5, 2018, a Department investigator attempted to contact Respondent one time using his telephone number of record, six times using his email address of record, and three times using his updated mailing address of record to request a response to the audit. No response was received from Respondent. Accordingly, Respondent violated Wis. Admin. Code § A-E 8.08(3).

As a result of the above violation, Respondent engaged in misconduct in the practice of architecture as defined in Wis. Admin. Code § A-E 8.03(3)(a) and is therefore subject to discipline pursuant to Wis. Stat. § 443.11(1).

### Appropriate Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends that Respondent's right to renew his architect license be revoked. Given that Respondent has made no argument to the contrary and that the recommended discipline is consistent with the purposes articulated in *Aldrich* and with case law, the Division's recommendation is adopted.

"Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, Wisconsin is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep't of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the state cannot assure the public of the licensee's competence to practice the profession, then revocation is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189–90, 349 N.W.2d 68 (1984).

Even though Respondent's license is currently expired, it is appropriate and necessary to impose discipline. Wisconsin Stat. § 440.08(3)(a) allows the holder of a credential to restore the credential even after expiration by simply paying the application renewal fee and a late renewal penalty of \$25. Under subparagraph (b), the Department is empowered with the ability to promulgate rules requiring credential holders who have failed to renew the credential for five years to complete additional requirements to restore their licenses. *See* Wis. Stat. § 440.08(3)(b). Read together, these provisions have been interpreted by the Department to mean that credential holders retain a right to automatically renew their credentials within five years of expiration by simply paying the required fees. Thus, Respondent has an automatic right to renew his license until July 31, 2023.

The same reasons justifying discipline in cases in which the respondents are currently credentialed apply to this case as Respondent may renew his permit at any time. *See In the Matter of the Disciplinary Proceedings Against Constance E. Hackbarth*, Order No. 0005392 (Aug. 10, 2017); *In the Matter of the Disciplinary Proceedings Against Brandon T. Roach*, Order

No. 0005126 (Jan. 13, 2017); *In the Matter of the Disciplinary Proceedings Against Todd Edmonds*, Order No. 0002317 (Feb. 26, 2013).

Revocation is necessary to protect the public from other instances of misconduct and to deter other credential holders from engaging in similar conduct. Respondent has demonstrated a lack of respect for the Section's legitimate authority. Respondent failed to cooperate throughout the Department's investigation and these proceedings. It is unknown whether Respondent completed the required CE to maintain his architect license. Thus, the Section cannot assure the public of Respondent's competency. Respondent's license has been expired since August 1, 2018. Therefore, revocation of Respondent's right to renew his license is an appropriate response to Respondent's disrespect for the law, the public welfare, and the licensing authority governing his profession.

Promoting rehabilitation is one of the purposes of discipline; however, rehabilitation is unlikely in this case as Respondent refused to engage in any meaningful way with the Section which granted his credential. Having obtained no information during the investigation from Respondent, the Section cannot assure the public that Respondent will practice his profession in a competent manner. Moreover, revocation of Respondent's right to renew his license is necessary to deter other licensees from refusing to cooperate with the Section in disciplinary matters. Licensees need to know this conduct will not be tolerated.

In light of the facts of this case and the factors set forth in *Aldrich*, revocation of Respondent's right to renew his architect license is warranted.

### Costs

As a result of Respondent's right to renew his architect license being revoked by the Section, the Section is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Section must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d. 237, 751 N.W.2d 385. In previous orders, boards have considered the following factors when determining if all or part of the costs should be assessed against a Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the fact that the Department is a program revenue agency, funded by other licensees. *See e.g., In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz*, LS 0802183 CHI (Aug. 14, 2008). It is within the Board's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

The following facts are particularly relevant to the instant case. The Division proved every count it alleged. This is not a case where the Division wasted resources or incurred additional costs by alleging multiple counts and then failing to prove those counts. Additionally, Respondent's conduct is serious. Respondent did not cooperate with the Department's



investigation or with these proceedings. As a result, the Division sought revocation of Respondent's right to renew his architect license, which was granted in this case. Further, Respondent made no argument concerning whether costs should be assessed against him. Finally, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. As such, fairness weighs heavily in favor of requiring Respondent to pay the costs of this proceeding which resulted in significant discipline rather than spreading the costs among all architects in Wisconsin.

Based on the foregoing, all of the costs of this proceeding should be assessed against Respondent in an amount to be determined pursuant to Wis. Admin. Code § SPS 2.18.

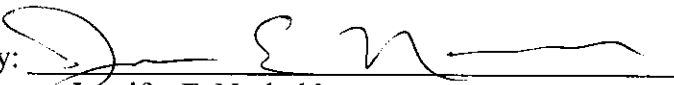
#### ORDER

Accordingly, it is hereby ORDERED that Respondent Paul C. Grimes's right to renew his Architect license (no. 9216-5) is REVOKED, effective on the date the final decision is signed by the Section.

IT IS FURTHER ORDERED that should Respondent ever apply for a credential with the Department in the future, Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18, prior to the Department's consideration of any such application.

Dated at Madison, Wisconsin on May 30, 2019.

STATE OF WISCONSIN  
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By:   
Jennifer E. Nashold  
Administrative Law Judge