

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE PROFESSIONAL ENGINEER SECTION OF THE WISCONSIN EXAMINING  
BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS AND PROFESSIONAL LAND SURVEYORS

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
DOUGLAS A. SMELKER, :  
RESPONDENT. : **ORDER UUU7018**

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Division of Legal Services and Compliance Case No. 19 ENG 005

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

Douglas A. Smelker  
Columbus, Ohio 43215

The Professional Engineer 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

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 Professional Engineer Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors (Section). 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Douglas A. Smelker (Birth Year: 1985) is licensed by the State of Wisconsin as a Professional Engineer, having certificate of registration number 44825-6, first issued on April 29, 2016 and current through July 31, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Columbus, Ohio 43215.

2. On April 9, 2019, Respondent notified the Department that Red Architecture + Planning LLC (Red) was being disciplined by the Ohio State Board of Registration for Professional Engineers and Surveyors (Ohio Board) for offering and providing services while its Ohio certificate of authorization was expired.

3. On May 1, 2019, the Ohio Board disciplined Red for offering and providing professional engineering services while its Ohio certificate of authorization was expired. Red was fined \$300. Respondent was identified as the responsible licensee for Red in Ohio.

4. Wisconsin Department of Financial Institutions records indicated that Red registered with the Department of Financial Institutions on December 13, 2013. Department records indicated that Red had never applied for or received a Wisconsin certificate of authorization.

5. On July 23, 2019, Red submitted its Wisconsin certificate of authorization application to the Department. The Department issued certificate of authorization number 4773-11 on April 6, 2020.

6. Respondent is identified in Department records as the responsible engineer for Red.

7. On June 10, 2020, the Department requested Respondent provide a list of projects per year in Wisconsin until April 6, 2020, and if Red had been disciplined or had discipline pending in any other jurisdiction.

8. On June 18, 2020, Respondent emailed the Department. Respondent stated that Red had not been disciplined nor was any discipline pending in any other jurisdiction. Respondent indicated that Red also conducted 9 projects involving engineering in Wisconsin prior to the certificate of authorization being issued.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Professional Engineer Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional 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 the conduct described in the Findings of Fact, Respondent Douglas A. Smelker violated Wis. Stat. § 443.08(2)(b)2. by practicing or offering to practice professional engineering as a principal, officer, employee, or agent of a firm, partnership, or corporation prior to the firm, partnership, or corporation being issued a certificate of authorization.

3. By the conduct described in the Findings of Fact, Respondent Douglas A. Smelker violated Wis. Admin. Code § A-E 8.09(1) by failing to comply with the requirements in Ch. 443, stats., rules in this chapter and all other federal, state and local codes which relate to the practice of professional engineering.

4. By the conduct described in the Findings of Fact, Respondent Douglas A. Smelker engaged in misconduct pursuant to Wis. Admin. Code § A-E 8.03(3)(a) by violating federal or state laws, local ordinances or administrative rules relating to the practice of professional engineering.

5. As a result of the above violations, Douglas A. Smelker is subject to discipline pursuant to Wis. Stat. § 443.11(1)(d) and (e).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Douglas A. Smelker is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$935.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

You may also submit this information online via the Department's Monitoring Case Management System at:

<https://dspsmonitoring.wi.gov>

5. In the event Respondent violates any term of this Order, Respondent's certificate of registration (number 44825-6), or Respondent's right to renew his certificate of registration, may, in the discretion of the Section or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Section may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

THE PROFESSIONAL ENGINEER SECTION OF THE WISCONSIN EXAMINING BOARD  
OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS AND PROFESSIONAL LAND SURVEYORS

by:

A handwritten signature in black ink, consisting of a stylized 'K' followed by a loop and a long horizontal stroke.

A Member of the Section

7 October 2020

Date

STATE OF WISCONSIN  
BEFORE THE PROFESSIONAL ENGINEER SECTION OF THE WISCONSIN  
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL  
ENGINEERS, DESIGNERS AND PROFESSIONAL LAND SURVEYORS

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DOUGLAS A. SMELKER,  
RESPONDENT.

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STIPULATION

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Division of Legal Services and Compliance Case No. 19 ENG 005

Respondent Douglas A. Smelker 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.

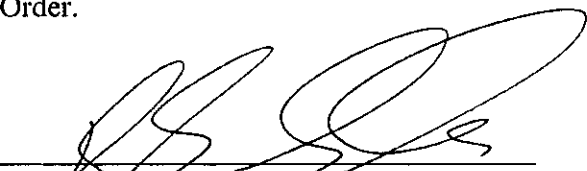
4. Respondent agrees to the adoption of the attached Final Decision and Order by  
the Professional Engineer Section of the Wisconsin Examining Board of Architects, Landscape  
Architects, Professional Engineers, Designers and Professional Land Surveyors (Section). The  
parties to the Stipulation consent 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 Section's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Section, 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 Section, the parties agree not to contend that the Section 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 and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Section adopt this Stipulation, the Section'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 the Section adopt this Stipulation and issue the attached Final Decision and Order.

  
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Douglas A. Smelker, Respondent  
Columbus, OH 43215  
Credential No. 44825-6

7/20/2020  
Date

*Renee M. Parton*  
\_\_\_\_\_  
Renee M. Parton, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

7/20/20  
Date