

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 DISCIPLINARY
PROCEEDINGS AGAINST

JAMES D. CARLSON,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0007137

Division of Legal Services and Compliance Case No. 18 RHI 009

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

James D. Carlson
Minocqua, WI 54548-9342

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 James D. Carlson (DOB xx/xx/1950) is registered in the State of Wisconsin as a home inspector, having registration number 2430-106, first issued on September 14, 2010 and current through December 14, 2020. Respondent Carlson's most recent address on file with the Department is located in Minocqua, Wisconsin 54548.

2. On December 30, 2013, Respondent was reprimanded (Final Decision and Order #0002908) in Case Number 13 RHI 251 for failing to complete sufficient hours of continuing education and making a material misstatement in an application for a renewal of a certificate in violation of Wis. Admin. Code § SPS 135.02(2) and Wis. Stat. § 440.978(2)(a).

3. On June 21, 2018, the Department received a complaint against Respondent, alleging that the home inspection performed by Respondent was deficient. Division of Legal Services and Compliance (Division) Case Number 18 RHI 009 was subsequently opened for investigation.

4. On August 17, 2018, Respondent submitted his response to the complaint, which included a copy of his agreement to inspect and home inspection report.

5. On September 7, 2018, the Department requested that Respondent identify where the items that Complainant stated were missing are located in his home inspection report.

6. On September 25, 2018, Respondent responded by showing where in the report the requested items were noted. Respondent admitted that some of these items, such as the flooring materials and roofing materials, were not as fully described as the Wis. Admin. Code requires.

7. On November 4, 2019, Respondent provided an updated report, however, two of the required items were still missing. Respondent did not note the floor materials throughout the structure or the exterior railings. The Department requested a further updated inspection report.

8. On January 15, 2020, Respondent provided an updated report, which included all items that are required in Wis. Admin. Code § 131.32.

9. 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 the conduct described in the Findings of Fact, Respondent Carlson violated Wis. Stat. § 440.975(3)(a) and Wis. Admin. Code § SPS 131.32(3) by failing to observe and describe the type and condition of the floor materials in the home inspection report.

3. By the conduct described in the Findings of Fact, Respondent Carlson violated Wis. Stat. § 440.975(3)(a) and Wis. Admin. Code § SPS 131.32(4)(a)1. by failing to observe and describe the condition of the roof materials in the home inspection report.

4. As a result of the conduct and violations noted in the Conclusions of Law, Respondent is subject to discipline pursuant to Wis. Stat. § 440.978(2)(m).

ORDER

1. The attached Stipulation is accepted.

2. Respondent James D. Carlson is REPRIMANDED.

3. Within 90 days from the date of this Order, Respondent James D. Carlson shall pay the COSTS of this matter in the amount of \$1,549.00.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent 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


You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

5. In the event Respondent violates any term of this Order, Respondent's credential (number 2430-106), or Respondent's right to renew his credential, may, in the discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Department 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.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: 
Aloysius Rohmeyer, Chief Legal Counsel
On Behalf of the Department

1/3/2021
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES D. CARLSON,
RESPONDENT.

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STIPULATION

ORDER 0007137

Division of Legal Services and Compliance Case No. 18 RHI 009

Respondent James D. Carlson 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.

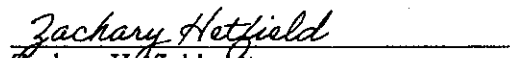
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Department ever assigned as an advisor in this investigation may appear before the Department in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Department may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Department should accept this Stipulation and issue the attached Final Decision and Order.

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 the Department adopt this Stipulation and issue the attached Final Decision and Order.


James D. Carlson, Respondent
Minocqua, WI 54548
Credential no. 2430-106

4-30-20
Date


Zachary Hetfield, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

5/5/20
Date