

BEFORE THE ARCHITECTURAL EXAMINING BOARD
OF THE STATE OF IOWA

Department of Commerce
Professional Licensing Bureau
FILED 1.16.2020 (Date)
Architecture
Board / Commission
Signature, Executive Officer

IN THE MATTER OF:

Case No. 19-27

Philip J. Silvestri
Architect license 06219

STATEMENT OF CHARGES
AND CONSENT ORDER

Silvestri Architects, PC
1321 Millersport Highway, Suite 101
Amherst, NY 14221

Respondent.

A. Statement of Charges

1. The Iowa Architectural Examining Board ("Board") has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 544A (2019).

2. Respondent holds architectural license number 06219, issued by the Board on February 3, 2009, which is now active and due for renewal on June 30, 2021.

3. Respondent applied for renewal of his license as an architect in Iowa on or about May 19, 2015.

4. The online renewal application form asked if, since the last renewal, has the applicant had a "disciplinary action of any type or been denied licensure/registration by any state board, including Iowa, or similar licensing body, in any governmental agency or jurisdiction?" There are radial buttons for "Yes" and "No." If the Respondent would have answered "Yes," the system would have made note, locked the online renewal, and prompted him to submit a paper renewal. Since the online renewals were completed, he must have answered "No." However, he should have answered yes. There are no board records that show the Respondent notified the board of this action.

5. During routine investigation, Board staff discovered Respondent a final decision and order entered by the Architect Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors with a Final Decision and Order in Case Number 14 ARC 004, which was signed on September 16, 2014. Respondent should have disclosed this matter on the renewal application.

6. Respondent provided erroneous information on his renewal application, which is a violation of Iowa Code section 544A.25(2)(b). The Board may deny an application based on a misstatement of this nature. Instead, the Board renewed the Respondent's license, but is now subjecting him to this consent order based on his misstatement. Providing truthful information is important in the application process and more generally in the practice of architecture.

7. Respondent is charged with violating section 544A.25(2)(b). Misstatements of this nature are also considered a practice harmful or detrimental to the public under Iowa Code sections 272C.10(3) and 544A.13(1)(c). See also Iowa Administrative Code rr. 193B—4.1(4), 4.1(5).

8. The Board considers all such misstatements serious matters, but there is a mitigating factor here as the nature of the Wisconsin matter would not have resulted in a denial of the application if properly disclosed.

9. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

B. Settlement Agreement and Consent Order

10. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and Iowa Administrative Code rule 193—7.4. Respondent acknowledges he had the opportunity to consult with legal counsel before signing this Consent Order.

11. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

12. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any violations.

13. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

14. Failure to comply with the provisions of this Order may be grounds for disciplinary action. However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

15. This Order is subject to approval of the Board:

(a) If the Board fails to approve this Order, it shall be of no force or effect on either party and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for failing to disclose the Wisconsin matter in his renewal application and failing to report the matter to the Board within 30 days of the final action.

B. Continuing Education

Respondent agrees to attend an ethics course of a minimum of one (1) hour of continuing education. The hour shall not count towards Respondent's continuing education requirement for renewal. Respondent is solely responsible for all costs associated with obtaining the hour. Respondent shall provide the Board proof of completion of the one (1) continuing education hour within sixty (60) days of the Board's approval of this Consent Order.

C. Civil Penalty

Respondent agrees to pay a civil penalty in the amount of fifty dollars (\$50) within thirty (30) days of the Board's approval of this Consent Order. All civil penalty payments shall be deposited into the State of Iowa general fund.

D. Future Compliance

Respondent is ordered to obey all applicable Iowa laws and rules in the future.

The Respondent

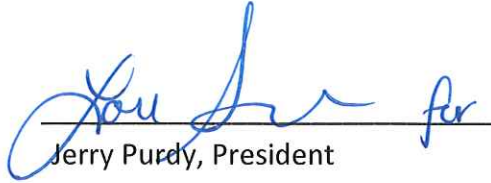


Phillip J. Silvestri

12/3/19

Date

Iowa Architectural Examining Board



Jerry Purdy, President

1.16.20

Date