

FEB 06 2019

Mark Viola,

RECEIVED

Complainant,

v.

FEB 06 REC'D

Certificate No. 1844

West Virginia Board of Architects,

WV BOARD OF
ARCHITECTS

Respondent.

Consent Agreement and Order

On December 6, 2018, the West Virginia Board of Architects ("Board"), considered Mark Viola's application for reinstatement in accordance W. Va. Code R. § 2-1-8.7 (Inactive Status - Renewal of Registration). Mr. Viola disclosed that he engaged in the practice of architecture while on inactive status which is a violation W. Va. Code § 2-1-8.9.

The parties have reached an agreement as to the disposition of this matter in controversy, and do hereby agree to the following.

Findings of Fact

1. The Board is a state entity charged with regulating the practice of architecture pursuant to W. Va. Code § 30-12 *et seq.*
2. The Board is empowered to review and act upon license/registration applications, renewals, and reciprocity registrations pursuant to W. Va. Code § 30-12 *et seq.*, and W. Va. Code R. § 2-1 *et seq.*
3. The Board may deny an application for reinstatement upon satisfactory proof that the applicant engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct, or has violated the provisions of W. Va. Code § 30-12-1 *et seq.*, or applicable rules. See W. Va. Code R. § 2-1-10.

4. Mr. Viola is a licensed or registered architect (Certificate No. 1844) in the State of West Virginia. He is considered to be on inactive status.
5. Mr. Viola is seeking reinstatement of his registration.
6. Mr. Viola disclosed that he had practice architecture while on inactive status.
7. The Board alleges that by practicing architecture while on inactive status, Mr. Viola violated W. Va. Code § 2-1-8.9 and is subject to disciplinary action pursuant to W. Va. Code R. § 2-1-10.

Conclusions of Law

1. The Board is empowered to review and act upon license/registration applications, renewals, and reciprocity registrations pursuant to W. Va. Code § 30-12 *et seq.*, and W. Va. Code R. § 2-1 *et seq.*
2. The Board has jurisdiction to take disciplinary action against Mr. Viola.
3. The Board is mandated by W. Va. Code § 30-12-1 *et seq.* to safeguard the life, health, proper and public welfare of the people of this State and to protect the people against the unauthorized, or improper practice of architecture.
4. The Board may deny an application for reinstatement upon satisfactory proof that the applicant engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct, or has violated the provisions of W. Va. Code § 30-12-1 *et seq.*, or applicable rules. See W. Va. Code R. § 2-1-10.
5. The conduct alleged against Mr. Viola, if proven at a hearing of this matter, constitutes a violation of W. Va. Code § 2-1-10, in that he practiced architecture while on inactive status.

Consent of Licensee

Complainant, Mark Viola, by affixing his signature hereto, acknowledges the following:

1. Mr. Viola has been given the opportunity to consult with counsel of his choice with regard to this matter.

2. Mr. Viola executes this Consent Agreement and Order voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

3. No person or entity has made any promise or given any inducement whatsoever to encourage Mr. Viola to make this settlement other than as set forth herein.

4. Mr. Viola acknowledges that he is aware he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

5. Mr. Viola acknowledges that he is aware this Consent Agreement and Order is a public document, available for inspection at any time by any member of the public under W. Va. Code § 29B-1 *et seq.*, Freedom of Information Act, and may be reported to other governmental, professional Boards or organizations.

6. Mr. Viola waives any defense of laches, statute of limitations, estoppel, lack of jurisdiction, lack of due process, and waiver that he may have otherwise claimed as a condition of this Consent Agreement and Order.

7. Without admitting that his conduct violates W. Va. Code §30-12 *et seq.*, or applicable rules, Mr. Viola consents to this Consent Agreement and Order; however, this is not an admission by Mr. Viola to the Board's allegations, findings of fact or conclusions of law and shall not be construed as such.

8. Mr. Viola, by affixing his signature hereon, consents and agrees to the following terms and conditions:

ORDER

On the basis of the foregoing, the Board does hereby **ORDER** and **DECREE**:

1. The Board shall reinstate Mr. Viola's license or registration upon execution and entry of this Consent Agreement and Order;

2. Mr. Viola shall pay a reinstatement fee of \$250.00.

3. Mr. Viola shall pay a late renewal fee (2014-2015) of \$150.00.

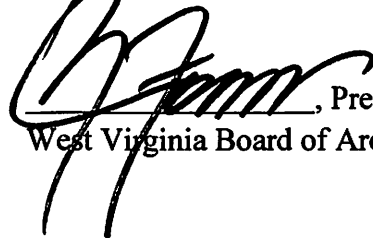
4. Mr. Viola Graff shall pay a civil penalty of \$2,150.00

5. Mr. Viola shall reimburse the Board for administrative cost in the investigation and disposition of this matter in the amount of \$500.00.

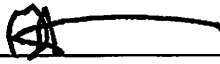
6. Fees, penalties, and costs shall be paid within 30 days of the execution and entry of this Consent Agreement.

7. Mr. Viola failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Mr. Viola violate any of the terms of this Consent Agreement and Order, the Board may take further disciplinary action against Mr. Graff's license.

Entered this 5th day of February, 2019.



_____, President
West Virginia Board of Architects

Reviewed and Agreed to by:



Mark Viola

2/5/19
Date



Legal Counsel or Witness

2/5/19
Date