

STATE OF FLORIDA  
BOARD OF ARCHITECTURE AND INTERIOR DESIGN

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,  
vs.

DBPR Case No.: 2002-012622  
DOAH Case No.: 03-1643

HELMUTH GEISER,

Respondent.

Final Order No. BPR-2004-00310 Date: 1-30-04  
FILED  
Department of Business and Professional Regulation  
AGENCY CLERK  
Sarah Wachman, Agency Clerk  
By: Brandon M. Nichols

FINAL ORDER

THIS MATTER was heard by the Board of Architecture and Interior Design pursuant to Section 120.569 and 120.57(1), Florida Statutes, on October 30, 2003, in Orlando, Florida, for consideration of the Recommended Order entered in this case by the Honorable Lawrence P. Stevenson, Administrative Law Judge, dated September 2, 2003. Respondent was present and represented by counsel, Darrin R. Schutt, Esquire. Petitioner was represented by David K. Minacci, Prosecuting Attorney. The Board was represented by Paul Martin, Senior Assistant Attorney General, and Mary Ellen Clark, Assistant Attorney General.

RULING ON EXCEPTIONS

Petitioner filed exceptions to the Recommended Order. After reviewing said exceptions, reviewing the complete record accompanying the Recommended Order, hearing argument of Counsel, and being otherwise fully advised in the premises, the Board hereby rules as follows:

1. Petitioner's exception to paragraph 45 in the Administrative Law Judge's Conclusions of Law is granted as further described in paragraph , below.

FINDINGS OF FACT

2. The Findings of Fact in the Recommended Order are hereby adopted and incorporated

by reference as the Board's Findings of Fact.

3. There is competent substantial evidence to support the Findings of Fact.

### **CONCLUSIONS OF LAW**

4. The Board has jurisdiction over the parties and the subject matter of this proceeding.

5. The Conclusions of Law in the Recommended Order are hereby adopted and incorporated by reference as the Board's Conclusions of Law with the following exception:

6. The Board rejects the Administrative Law Judge's conclusion of law found in paragraph 45 of the Recommended Order. The Board finds that, given that Respondent is not licensed as an architect in the State of Florida, and, based upon section 481.223(1)(c), Florida Statutes, Respondent is not entitled to describe his services to potential clients through use of the term "architecture." See similar finding regarding interior design services in State of Florida v. Pavon, 792 So. 2d 665 (Fla. 4<sup>th</sup> DCA 2001).

7. There is competent substantial evidence to support the conclusions of law as modified, above, and the finding that Respondent violated sections 481.223(1)(a) and (c), Florida Statutes, as recommended by the Administrative Law Judge.

### **PENALTY**

8. Upon a complete review of the record in this case, the Board rejects the Recommended Penalty of a \$2,000.00 administrative fine and, instead, determines that a fine of \$10,000.00 and costs of \$4,361.97 shall be imposed. As support for the increase in penalty, the Board adopts paragraphs 11 and 12 of Petitioner's Exceptions to Recommended Order.

WHEREFORE, and for the foregoing reasons, it is hereby ORDERED:

9. Respondent shall pay an administrative fine of \$10,000.00 and costs of \$4,361.97, by money order, cashier's or certified check payable to the Board of Architecture and Interior

Design, 1940 N. Monroe Street, Tallahassee, FL 32399, within 30 days of the effective date of this Order.

This Order takes effect upon filing with the Clerk of the Department of Business and Professional Regulation. The Parties are notified, pursuant to Section 120.68, Florida Statutes, that they may appeal this Final Order by filing, within thirty days of the filing date of this Order, a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation and a copy of said Notice of Appeal accompanied by filing fees prescribed by law with the District Court of Appeal.

**DONE AND ORDERED** this 23 day of January, 2004 by the Florida Board of Architecture and Interior Design.

BOARD OF ARCHITECTURE  
AND INTERIOR DESIGN

  
SHARON DEL BIANCO, CHAIR

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: Helmth Geiser, c/o his counsel, Darrin R. Schutt, Esq., Seeman & Schutt, P.A., 1105 Cape Coral Parkway East, Suite C, Cape Coral, FL 33904; David K. Minacci, Esquire, Smith, Thompson, Shaw & Manausa, P.A., 2075 Centre Pointe Blvd., Tallahassee, FL 32308-4893; and to Mary Ellen Clark, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, by 5:00 p.m., this 30<sup>th</sup> day of

January, 2004.

