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8 **BEFORE THE**
CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 10-04-85

11 **BOBBY KNOX**
12 **3763 Griffith View Drive**
13 **Los Angeles, CA 90039**
14 **Architect License No. C-12197**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Douglas R. McCauley (Complainant) brings this Accusation solely in his official
19 capacity as the Executive Officer of the California Architects Board, Department of Consumer
20 Affairs.

21 2. On or about September 1, 1981, the California Architects Board issued Architect
22 License Number C-12197 to Bobby Knox (Respondent). The Architect License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on January 31, 2015,
24 unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the California Architects Board (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section references
28 are to the Business and Professions Code unless otherwise indicated.

1 4. Section 5500 states: "As used in this chapter [Chapter 3 (commencing with Section
2 5500)], architect means a person who is licensed to practice architecture in this state under the
3 authority of this chapter."

4 5. Section 5558 states: Each person holding a license to practice architecture under this
5 chapter shall file with the board his or her current mailing address and the proper and current name
6 and address of the entity through which he or she provides architectural services. For purposes of
7 this section, "entity" means any individual, firm, corporation, or limited liability partnership.

8 6. Section 5578 states: "The fact that the holder of a license is practicing in violation of
9 the provisions of this chapter constitutes a ground for disciplinary action."

10 7. Section 5584 states: "The fact that, in the practice of architecture, the holder of a
11 license has been guilty of negligence or willful misconduct constitutes a ground for disciplinary
12 action."

13 8. Section 5588 states:

14 (a) A licensee shall report to the board in writing within 30 days of the date the licensee has
15 knowledge of any civil action judgment, settlement, arbitration award, or administrative action
16 resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging
17 fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of
18 architecture if the amount or value of the judgment, settlement, or arbitration award is five
19 thousand dollars (\$5,000) or greater.

20 (b) The report required by subdivision (a) shall be signed by the licensee and shall set forth
21 the facts that constitute the reportable event. If the reportable event involves the action of an
22 administrative agency or court, the report shall set forth all of the following:

23 (1) The title of the matter.

24 (2) The court or agency name.

25 (3) The docket number.

26 (4) The claim or file number.

27 (5) The date on which the reportable event occurred.

28

1 (c) A licensee shall promptly respond to oral or written inquiries from the board concerning
2 the reportable events, including inquiries made by the board in conjunction with license renewal.

3 (d) Failure of a licensee to report to the board in the time and manner required by this
4 section shall be grounds for disciplinary action.

5 (e) Any licensee who fails to comply with this section may be subject to a civil penalty of not
6 less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) as an
7 additional intermediate sanction imposed by the board in lieu of revoking the licensee's license.

8 Any licensee who knowingly and intentionally fails to comply with this section may be subject to a
9 civil penalty of up to twenty thousand dollars (\$20,000) as an additional intermediate sanction
10 imposed by the board in lieu of revoking the licensee's license.

11 9. California Code of Regulations, title 16, section 150 states:

12 "Willful misconduct includes the violation by an architect of a provision of the agreement
13 with a client if:

14 "(1) the architect has full knowledge that the conduct or omission is a violation of the
15 agreement, and

16 "(2) the architect has made no reasonable effort to inform the client of the conduct or
17 omission."

18 10. California Code of Regulations, title 16, section 160 states, in pertinent part:

19 A violation of any rule of professional conduct in the practice of architecture constitutes a
20 ground for disciplinary action. Every person who holds a license issued by the Board shall comply
21 with the following:

22 (a) Competence:

23 (1) An architect shall undertake to perform professional services only when he or she,
24 together with those whom the architect may engage as consultants, are qualified by education,
25 training, and experience in the specific technical areas involved.

26 (2) In addition to subsection (a)(1) above, when practicing architecture, an architect shall act
27 with reasonable care and competence, and shall apply the technical knowledge and skill which is
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1 ordinarily applied by architects of good standing, practicing in this state under similar
2 circumstances and conditions.

3 (b) Willful Misconduct:

4 (1) In designing a project, an architect shall have knowledge of all applicable building laws,
5 codes, and regulations. An architect may obtain the advice of other professionals (e.g., attorneys,
6 engineers, and other qualified persons) as to the intent and meaning of such laws, codes, and
7 regulations and shall not knowingly design a project in violation of such laws, codes and
8 regulations.

9 ~~(2) Whenever the Board is conducting an investigation, an architect or a candidate for~~
10 ~~licensure shall respond to the Board's requests for information and/or evidence within 30 days of~~
11 ~~the date mailed to or personally delivered on the architect or a candidate for licensure.~~

12

13 (f) Informed Consent:

14 (1) An architect shall not materially alter the scope or objective of a project without first
15 fully informing the client and obtaining the consent of the client in writing.

16 11. Section 118, subdivision (b), of the Code provides that the
17 suspension/expiration/surrender/cancellation of a license shall not deprive the
18 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
19 within which the license may be renewed, restored, reissued or reinstated.

20 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
24 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
25 included in a stipulated settlement.

26 13. Government Code section 11519, subdivision (d), provides that the Board may require
27 restitution of damages suffered as a condition of probation in the event probation is ordered.

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BERGMAN PROJECT

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2 14. In or around 2003, Respondent was asked to provide construction documents for a
3 new residence to replace one lost to a fire by an Oakland family (Campanioni) in 2002. In
4 February 2003, Campanioni executed a "Letter of Agreement" with Respondent to provide design
5 and construction document services on the project. In or around April 2003, Campanioni entered
6 into a construction contract with Diversified Products Industries, LTD (Diversified) to construct
7 the residence for a sum of \$398,350. In or around June 2003, Respondent completed the
8 construction documents, including drawings and calculations for the new residence, which were
9 submitted to the city of Oakland for plan check. The plans were reportedly approved in August
10 2003, and construction commenced shortly thereafter. On or around October 20, 2003, Phase
11 One was completed after which a dispute arose between Campanioni and Diversified. After
12 several years of legal proceedings, the property was lost in a bankruptcy proceeding.

13 15. In or around 2007, John Bergman (Bergman) acquired the property via a court
14 auction. In June 2007, Bergman requested that Respondent sign a form authorizing the release of
15 the Campanioni residence construction documents. After receiving the documents, Bergman sent
16 out bid requests for estimates to finish construction on the residence and ultimately selected
17 Valubuild Panel Homes. On or around September 21, 2007, Bergman requested that Respondent
18 make changes in the floor framing system and requested that he send a contract for the requested
19 changes. Bergman also sent Respondent twenty color photographs of the existing site conditions
20 showing the extent of the existing foundation work completed by Diversified in 2003/2004.

21 16. On or around October 4, 2007, Respondent sent a fee proposal to Bergman for the
22 services requested on the project and estimated that the revisions would take 5-7 working days.
23 The proposed fee totaled \$4,150, which included \$1,600 for structural calculations. The
24 agreement was executed by the parties the following day.

25 17. In March of 2008, Bergman requested that Respondent provide revised structural
26 calculations to the city in order to be in compliance with the new 2007 California Building Code.
27 The project was delayed while the parties argued over responsibility for the revised structural
28 calculations. In or around January 2009, construction documents were approved by the city and

1 construction commenced in June 2009. Soon thereafter, Bergman discovered there were problems
2 with the foundation, including the fact that the major east-west shear wall was not in the place
3 shown on the Respondent's new and permitted drawings.¹

4 18. Between 2009-2010, Bergman continued building the residence and attempted with
5 little success to obtain Respondent's assistance in solving the various problems created by his
6 erroneous assumptions about the existing foundation locations. The relationship between the
7 parties ultimately deteriorated to the point where the matter was heard by an arbitrator, who
8 rendered a judgment in favor of Bergman in the amount of \$106,703.32.

9 FIRST CAUSE FOR DISCIPLINE

10 (Negligence and/or Willful Misconduct)

11 19. Respondent is subject to disciplinary action under section 5584, in that with respect to
12 the Bergman Project, he committed acts of negligence and/or willful misconduct during the course
13 of providing architectural services as follows. Complainant refers to and by this reference
14 incorporates the allegations set forth above in paragraphs 14-18, as though set forth fully.

15 a. Respondent failed to exercise reasonable care and competence in evaluating
16 existing conditions that were shown to be significantly different from original plans. Specifically,
17 when presented with photographs of the existing site conditions, Respondent noticed there were
18 changes made to the foundation system during the first construction phase by the original
19 contractor. Rather than investigate the facts and circumstances underlying the changes, he made
20 assumptions about what had been done and proceeded to make changes to the foundation system
21 and to the floor plan layouts of the proposed residence, which resulted in material financial injury
22 to the property owner.

23 b. Respondent made various changes to the foundation system layout and the floor
24 plan designs for the proposed residence without consulting the property owner, which resulted in
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26 ¹ Respondent erroneously assumed the foundation was as depicted on the original plans.
27 The photographs sent to Respondent should have placed him on notice of possible changes to the
28 plans and should have prompted a site inspection prior to his preparation of the construction documents.

1 \$11,435.37 in additional framing costs as well as a revision in materials that increased costs for
2 structural insulated panels by \$23,860.

3 c. Respondent willfully failed to provide various contracted services in a timely
4 manner as follows:

5 i. Respondent failed to alert the project owner to the pending January 1,
6 2008 transition to the new 2007 California Building Code and to the
7 corresponding significance of applying for a permit before year end when
8 he provided him with construction documents in mid December.

9 ii. Respondent completed revised calculations in March 2008, but did not
10 deliver them to the project owner until December 2008, which resulted in
11 financial harm to the project owner.

12 d. During the course of construction in 2009-2010, numerous document
13 deficiencies, errors and omissions were discovered that resulted from Respondent's failure to
14 coordinate the foundation and floor plan changes throughout the documents to mitigate impacts of
15 the changes to the superstructure, openings, etc. His failure to coordinate constitutes a failure to
16 exercise the degree of responsible control over the changes he made to his documents that one
17 would expect from a competent architect.

18 SECOND CAUSE FOR DISCIPLINE

19 (Violations of Rules of Professional Conduct)

20 20. Respondent is subject to disciplinary action under California Code of Regulations, title
21 16, section 160, in that with respect to the Bergman Project, he violated rules of professional
22 conduct as follows:

23 Section 160, subdivision (a)(2): Respondent failed to act with reasonable care and
24 competence and failed to apply the technical knowledge and skill which is ordinarily applied by
25 architects of good standing, practicing in this state under similar circumstances and conditions as
26 further described in paragraph 19(a) above.

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