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

10 In the Matter of the Accusation Against:

Case Nos. 07-05-123; 07-06-160.

11 **EDWARD W. POWELL**
12 **AKA TED POWELL**
13 **DBA DESIGN TO THE NINES, D 2 9S**
14 **6131 Huasna Townsite Road**
Arroyo Grande, CA 93420
Architect License No. C-27775

A C C U S A T I O N

No. 10-04-07-05-123

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about June 3, 1999, the Board issued Architect License Number C-27775 to
23 Edward W. Powell aka Ted Powell dba Design to the Nines, D 2 9s (Respondent). The Architect
24 License will expire on June 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 4. Section 5555 states:

2 “Licenses to practice architecture remain in full force until revoked or suspended for cause,
3 or until they expire, as provided in this chapter [Chapter 3 (commencing with Section 5500)].”

4 5. Section 5560 states:

5 “The board may upon its own motion, and shall upon the verified complaint in writing of
6 any person, investigate the actions of any architect and may temporarily suspend or permanently
7 revoke, the license of any architect who is guilty of, or commits one or more of, the acts or
8 omissions constituting grounds for disciplinary action under this chapter.”

9 **STATUTORY PROVISIONS**

10 6. Section 5578 states:

11 “The fact that the holder of a license is practicing in violation of the provisions of this
12 chapter constitutes a ground for disciplinary action.”

13 7. Section 5584 states:

14 “The fact that, in the practice of architecture, the holder of a license has been guilty of
15 negligence or willful misconduct constitutes a ground for disciplinary action.”

16 **REGULATORY PROVISION**

17 8. California Code of Regulations, title 16, section 160 states in part:

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

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22 “(b) Willful Misconduct:

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

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1 **COST RECOVERY**

2 9. Section 125.3 of the Code provides in part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **Foard-Wilder Project**

7 10. On or about April 11, 2006, Respondent entered into a contract with Stephanie Foard-
8 Wilder and Corine Wilder for a residential second-story addition. The contract amount was
9 \$21,000, payable in three installments of \$7,000, upon contract signing, upon planning approval
10 and upon issuance of a building permit. Respondent was to complete the architectural plans and
11 submit these to the City of Los Angeles (City) for approval. Respondent's plans lacked the
12 requisite information and detail necessary for City planning approval and Respondent failed to
13 correct the plans as required by the City. Furthermore, Respondent failed to determine the need
14 for a parking variance and should have known that including tandem parking in the plans was not
15 an acceptable resolution in Los Angeles County. Respondent had previously been issued a
16 citation, by the Board, for utilizing tandem parking in architectural plans. As a result, Respondent
17 did not submit corrected plans and failed to obtain City approval of the plans. Respondent billed
18 Ms. Foard-Wilder for services that were never completed. Ms. Foard-Wilder paid a total of
19 \$14,000 to the Respondent. On or about January 4, 2007, Ms. Foard-Wilder terminated her
20 contract with the Respondent.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Negligence)**

23 11. Respondent is subject to disciplinary action under section 5584, in that Respondent's
24 work on the Foard-Wilder Project constitutes negligence. Complainant's allegations, as set forth
25 in paragraph 10 are incorporated by reference, as though fully set forth.

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SECOND CAUSE FOR DISCIPLINE

(Willful Misconduct-Violated Building Code)

12. Respondent is subject to disciplinary action under section 5584, in conjunction with California Code of Regulations section 160, subdivision (b)(1), for willful misconduct, in that he knowingly violated building laws, codes, and or regulations in the provision of the architectural plans on the Foard-Wilder Project, for failing to determine the need for a parking variance. Complainant's allegations, as set forth in paragraph 10 are incorporated by reference, as though fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Violation of Architects Practice Act)

13. Respondent is subject to disciplinary action under section 5578, in that Respondent, on the Foard-Wilder Project, violated the Architects Practice Act. Complainant's allegations, as set forth in paragraphs 10 through 12, are incorporated by reference, as though fully set forth.

Schuh Project

14. On or about August 4, 2004, Respondent entered into two contracts with Jeffry Schuh. The first contract was to provide architectural plans for a residential home addition and renovation. The contract amount was \$6,000, of which Mr. Schuh paid \$3,000 to Respondent. The second contract was for residential landscape design. The contract amount was \$3,000, of which Mr. Schuh paid \$1,500 to Respondent. Respondent was to complete the architectural plans and submit them to the City of El Segundo (City) for planning approval. Respondent's plans lacked the requisite information and detail necessary for City approval. The City asked Respondent to submit corrected plans. However, Respondent failed to submit plan corrections within the specified six month time limit and failed to obtain City approval of the plans. Respondent did not complete the plans for the Schuh residential addition. Respondent billed Mr. Schuh for services that were never completed. On or about April 4, 2007, Mr. Schuh terminated both contracts with the Respondent.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Negligence)

3 15. Respondent is subject to disciplinary action under section 5584, in that Respondent's
4 work on the Schuh Project constitutes negligence. Complainant's allegations, as set forth in
5 paragraph 14, are incorporated by reference, as though fully set forth.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 (Violation of Architectural Practice Act)

8 16. Respondent is subject to disciplinary action under section 5578, in that Respondent,
9 on the Schuh Project, violated the Architects Practice Act. Complainant's allegations, as set forth
10 in paragraphs 14 and 15, are incorporated by reference, as though fully set forth.

11 **DISCIPLINE CONSIDERATIONS**

12 17. To determine the degree of discipline, if any, to be imposed on Respondent,
13 Complainant alleges that on or about June 23, 2006, in a prior action, the Board issued Citation
14 Number #06-02, based upon two causes for citation. The first cause was in connection with
15 building plans that were missing the required elements necessary for approval and the plans
16 included tandem parking for which the City of Los Angeles does not allow. The second cause
17 centered on insufficient plans and Respondent's failure to complete the construction documents.
18 The Board determined the Respondent was negligent and cited him for a Class "C" violation.
19 Respondent was fined \$500 for each cause and was ordered to cease and desist from violating
20 section 5584. That Citation is now final and is incorporated by reference as if fully set forth.

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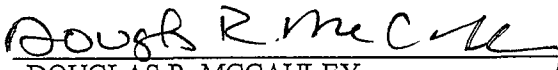
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Architects Board issue a decision:

1. Revoking or suspending Architect License Number C-27775, issued to Edward W. Powell, aka Ted Powell, dba Design to the Nines, D 2 9s;
2. Ordering Edward W. Powell to pay the California Architects Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: August 30, 2010


DOUGLAS R. MCCAULEY
Executive Officer
California Architects Board
Department of Consumer Affairs
State of California
Complainant

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