

BEFORE THE
CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**EDWARD W. POWELL AKA TED
POWELL DBA DESIGN TO THE NINES,
D 2 9S
25 Burnham Road, #21
Oak View, CA 93022
Architect License No. C-27775,**

Respondent.

Case No. 10-04-07-05-123

OAH No. L-2010120082

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Architects Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 21, 2011.

It is so ORDERED June 21, 2011.



FOR THE CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS

CHIVITTE
JUL 21 2011
OAH 10-04-07-05-123

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
4 State Bar No. 223382
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

11 **EDWARD W. POWELL AKA TED**
12 **POWELL DBA DESIGN TO THE NINES,**
13 **D 2 9S**
14 **25 Burnham Road, #21**
Oak View, CA 93022
Architect License No. C-27775,

15 Respondent.

Board Case No. 07-05-123, 07-06-160

OAH No. L-2010120082

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the California Architects Board (Board) of the Department of
20 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
22 disposition of the Accusation.

23 PARTIES

24 1. Douglas R. McCauley (Complainant) is the Executive Officer of the Board. He
25 brought this action solely in his official capacity and is represented in this matter by Kamala D.
26 Harris, Attorney General of the State of California, by Morgan Malek, Deputy Attorney General.
27
28

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 10-04-07-05-123.

4 9. Respondent agrees that his Architect License is subject to discipline and he agrees to
5 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

7 10. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and settlement, without notice to or participation by
10 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
11 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
12 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
13 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
17 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
18 effect as the originals.

19 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
20 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
22 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
23 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
24 writing executed by an authorized representative of each of the parties.

25 ///

26 ///

27 ///

28

1 shall recommence on the effective date of resumption of practice in California. Periods of
2 temporary or permanent residency or practice outside California or of non-practice within
3 California will not apply to the reduction of this probationary period.

4 6. **Violation of Probation.** If Respondent violates probation in any respect, the Board,
5 after giving Respondent notice and opportunity to be heard (except for any violation of restitution
6 payments in paragraph nine (9) no notice or opportunity to be heard will be available), may
7 revoke probation and carry out the disciplinary order which was stayed. If an accusation or a
8 petition to revoke probation is filed against Respondent during probation, the Board shall have
9 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
10 the matter is final.

11 7. **Completion of Probation.** Upon successful completion of probation, Respondent's
12 license will be fully restored.

13 8. **Continuing Education Courses.** Respondent shall complete professional education
14 courses directly relevant to the violation as specified by the Board. The professional education
15 courses¹ shall be completed within a period of time designated by the Board, which timeframe
16 shall be incorporated as a condition of this probation.

17 Failure to satisfactorily complete the required courses as scheduled or failure to complete
18 same no later than one hundred (100) days prior to the termination of probation shall constitute a
19 violation of probation. Respondent is responsible for all costs of such courses.

20 9. **Restitution.** Respondent shall make restitution to Stephanie Foard-Wilder in the
21 amount of \$14,000 (fourteen thousand dollars) as follows: **Respondent shall pay the total**
22 **amount of the restitution to Stephanie Foard-Wilder by way of forty eight (48) equal**
23 **installment payments of TWO HUNDRED NINETY ONE DOLLARS AND SIXTY SIX**
24 **CENTS (\$291.66) beginning thirty (30) days after the effective date of this decision, and**
25 **each consecutive month thereafter, payable on the fifteenth (15th) day of each month.**
26 **Respondent shall make the checks for the payments to Stephanie Foard-Wilder and mail**

27 _____
28 ¹ Professional Ethics and Commercial Law

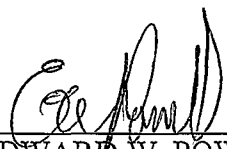
1 the checks to the attention and address of Stephanie Foard-Wilder AS FOLLOWS: 630
2 East 38th Street, Los Angeles, CA 90011. Respondent shall make restitution to Jeffrey Schuh in
3 the amount of \$4,500 (four thousand five hundred dollars) as follows: Respondent shall pay the
4 total amount of the restitution to Jeffrey Schuh by way of forty eight (48) equal installment
5 payments of NINETY THREE DOLLARS AND SEVENTY FIVE CENTS (\$93.75)
6 beginning thirty (30) days after the effective date of this decision, and each consecutive
7 month thereafter, payable on the fifteenth (15th) day of each month. Respondent shall
8 make the checks for the payments to Jeffrey Schuh and mail the checks to the attention and
9 address of Jeffrey Schuh AS FOLLOWS: 411 Concord Street, El Segundo, CA 90245.
10 Respondent shall provide the Board with proof from Stephanie Foard-Wilder and Jeffrey
11 Schuh attesting the full restitution has been paid. Failure to make any of the installment
12 payments set forth above shall be considered a violation of probation resulting in
13 Respondent's license being automatically revoked without an opportunity to be heard.

14 10. Suspension of License Due to the Child Support Arrear Payments. Any
15 suspension periods of Respondent's license due to the child support arrear payments or other
16 reasons, shall NOT count as time on probation with the Board.

17 ACCEPTANCE

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
19 stipulation and the effect it will have on my Architect License. I enter into this Stipulated
20 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
21 bound by the Decision and Order of the Board.

22
23
24 DATED: 05/05/2011


EDWARD W. POWELL AKA TED POWELL DBA
DESIGN TO THE NINES, D 2 9S
Respondent

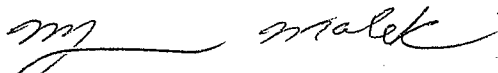
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of the Department of Consumer Affairs.

Dated: ~~April 21, 2011~~ ^{May 6, 2011}

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


MORGAN MALEK
Deputy Attorney General
Attorneys for Complainant

LA2010600298
Stipulation.rtf

Exhibit A

Accusation No. 10-04-07-05-123

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHELLE MCCARRON
Deputy Attorney General
4 State Bar No. 237031
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
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

ACCUSATION

No. 10-04-07-05-123

15 Respondent.

16
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.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COST RECOVERY

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

Foard-Wilder Project

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

FIRST CAUSE FOR DISCIPLINE

(Negligence)

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

///

///

///

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.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

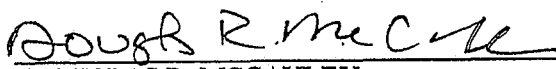
28 ///

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

LA2010600298
50651978.doc