

**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

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DEPARTMENT OF CONSUMER AFFAIRS

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

22 **PARTIES**

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

2. Edward W. Powell aka Ted Powell dba Design to the Nines, D 2 9s (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 3, 1999, the Board issued Architect License No. C-27775 to Respondent. The architect license was suspended on March 10, 2008, due to child support arrearages and was renewed on June 15, 2010. A 30-day Notice of Intent to Suspend Respondent's license due to child support arrearages was issued on January 11, 2011, and his license was suspended on February 15, 2011.

## JURISDICTION

4. Accusation No. 10-04-07-05-123 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 7, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 10-04-07-05-123 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 10-04-07-05-123. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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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.

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13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Architect License No. C-27775 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations governing the practice of architecture in California.

2. **Submit Quarterly Reports.** Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form (1/00) obtained from the Board.

3. **Personal Appearances.** Upon reasonable notice by the Board, the Respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. **Cooperate During Probation.** Respondent shall cooperate fully with the Board, and with any of its agents or employees in their supervision and investigation of his compliance with the terms and conditions of this probation. Upon reasonable notice, the Respondent shall provide the Board, its agents or employees with the opportunity to review all plans, specifications, and instruments of service prepared during the period of probation.

5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.** In the event Respondent should leave California to reside or to practice outside the State or for any reason stop practicing architecture in California, Respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return, or the dates of non-practice or the resumption of practice within California. Non-practice is defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in any activities defined in Section 5500.1 of the Business and Professions Code. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until Respondent resumes practice in California. All provisions of probation

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 courses<sup>1</sup> 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       <sup>1</sup> Professional Ethics and Commercial Law

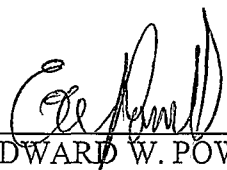
1 the checks to the attention and address of Stephanie Foard-Wilder AS FOLLOWS: 630  
2 East 38th Street, Los Angeles, CA 90011. Respondent shall make restitution to Jeffry Schuh in  
3 the amount of \$4,500 (four thousand five hundred dollars) as follows: Respondent shall pay the  
4 total amount of the restitution to Jeffry 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 Jeffry Schuh and mail the checks to the attention and  
9 address of Jeffry Schuh AS FOLLOWS: 411 Concord Street, El Segundo, CA 90245.  
10 Respondent shall provide the Board with proof from Stephanie Foard-Wilder and Jeffry  
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

  
25 EDWARD W. POWELL AKA TED POWELL DBA  
26 DESIGN TO THE NINES, D 2 9S  
27 Respondent  
28

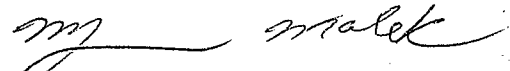
ENDORSEMENT

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

May 6, 2011  
Dated: April 21, 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*

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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  
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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**  
6131 Huasna Townsite Road  
14 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.

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.

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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:

21         ....

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 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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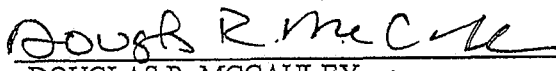
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PRAYER

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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