

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

In the Matter of the Statement of Issues
Against:

SCOTT SPENCER
1110 Torrey Pines Road – Suite “D”
La Jolla, CA 92037

Architect License

Respondent.

Case No. 11-06-111AD

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 12/12/2011.

It is so ORDERED 12/7/2011



FOR THE CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:

13 **SCOTT SPENCER**
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14 La Jolla, CA 92037

15 **Architect License**

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Case No. 11-06-111AD

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Complainant Douglas R. McCauley is the Executive Officer of the California
21 Architects Board (Board). He brought this action solely in his official capacity and is represented
22 in this matter by Kamala D. Harris, Attorney General of the State of California, by G. Michael
23 German, Deputy Attorney General.

24 2. Respondent Scott Spencer is representing himself in this proceeding and has chosen
25 not to exercise his right to be represented by counsel.

26 3. On June 9, 2011, Respondent filed an application dated June 7, 2011, with the Board
27 to obtain an Architect License.

1 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
2 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
3 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
4 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
5 be disqualified from further action by having considered this matter.

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

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

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

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Respondent Scott Spencer will be issued an Architect
20 License that will be immediately revoked. The revocation will be stayed and the Respondent
21 placed on five years probation on the following terms and conditions.

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

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

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

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

6 5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.** In the
7 event Respondent should leave California to reside or to practice outside the State or for any
8 reason stop practicing architecture in California, Respondent shall notify the Board or its designee
9 in writing within ten days of the dates of departure and return, or the dates of non-practice or the
10 resumption of practice within California. Non-practice is defined as any period of time exceeding
11 thirty days in which Respondent is not engaging in any activities defined in Section 5500.1 of the
12 Business and Professions Code. All provisions of probation other than the quarterly report
13 requirements, examination requirements, and education requirements, shall be held in abeyance
14 until Respondent resumes practice in California. All provisions of probation shall recommence
15 on the effective date of resumption of practice in California. Periods of temporary or permanent
16 residency or practice outside California or of non-practice within California will not apply to the
17 reduction of this probationary period.

18 6. **Violation of Probation.** If Respondent violates probation in any respect, the Board,
19 after giving Respondent notice and opportunity to be heard, may revoke probation and carry out
20 the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed
21 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
22 is final, and the period of probation shall be extended until the matter is final.

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

25 8. **Continuing Education Courses.** Respondent shall complete a professional
26 education course in ethics as approved by the Board. The professional education course shall be
27 completed within six months from the effective date of this Order, which timeframe shall be
28 incorporated as a condition of this probation.

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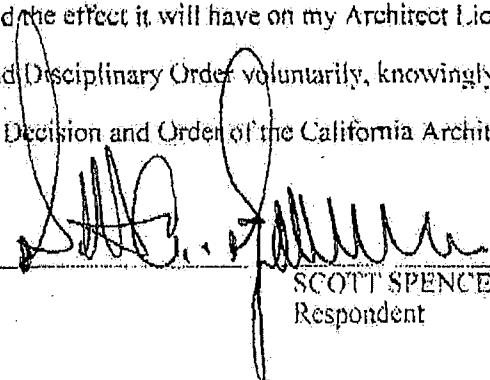
Failure to satisfactorily complete the required course as scheduled shall constitute a violation of probation. Respondent is responsible for all costs of such course.

9. **Cost Reimbursement.** Respondent shall reimburse the Board \$3,350.00 for its investigative and prosecution costs. The payment shall be made in 15 quarterly payments of \$210.00 each, commencing within 30 days of the effective date of this order, with a final payment of \$200.00 being due not later than one year before probation is scheduled to terminate.

ACCEPTANCE

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

DATED:



SCOTT SPENCER
Respondent

NOV. 22, 2011

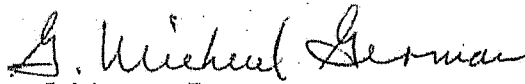
ENDORSEMENT

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

DATED:

11-22-11

KAMALA D. HARRIS
Attorney General of California


G. MICHAEL GERMAN
Deputy Attorney General
Attorneys for Complainant

SD2011800947

Exhibit A

Statement of Issues No. 11-06-111AD

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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3 G. MICHAEL GERMAN
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8 **BEFORE THE**
9 **CALIFORNIA ARCHITECTS BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:	Case No. 11-06-111AD
12 SCOTT SPENCER	STATEMENT OF ISSUES
13 7527 Girard Avenue	
14 La Jolla, CA 92037	
Respondent.	

15 Complainant alleges:

16 **PARTIES**

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

20 2. On June 9, 2011, the Board received an application for an Architect License from
21 Respondent Scott Spencer. On June 7, 2011, Scott Spencer certified under penalty of perjury to
22 the truthfulness of all statements, answers, and representations in the application. The Board
23 denied the application on June 20, 2011.

24 **JURISDICTION**

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

1 4. Section 5552, subdivision (a) states:

2 The applicant for a license to practice architecture shall:

3 (a) Not have committed acts or crimes constituting grounds for denial of a
4 license under Section 480.

5 5. Section 480 states in pertinent part:

6 (a) A board may deny a license regulated by this code on the grounds that
7 the applicant has one of the following:

8

9 (2) Done any act involving dishonesty, fraud or deceit with the intent to
substantially benefit himself . . . or another, or substantially injure another.

10 (3) (A) Done any act that if done by a licentiate of the business or
11 profession in question, would be grounds for suspension or revocation of license.

12 (B) The board may deny a license pursuant to this subdivision only if the
13 crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made.

14

14 STATUTORY PROVISIONS

15 6. Section 5500.1 states in pertinent part:

16 (a) The practice of architecture within the meaning and intent of this chapter
17 is defined as offering or performing, or being in responsible control of, professional
18 services which require the skills of an architect in the planning of sites, and the
design, in whole or in part, of buildings, or groups of buildings and structures.

19 (b) Architects' professional services may include any or all of the following:

20 (1) Investigation, evaluation, consultation, and advice.

21 (2) Planning, schematic and preliminary studies, designs, working drawings,
and specifications.

22 (3) Coordination of the work of technical and special consultants.

23 (4) Compliance with generally applicable codes and regulations, and
24 assistance in the governmental review process.

25 (5) Technical assistance in the preparation of bid documents and agreements
between clients and contractors.

26 (6) Contract administration.

27 (7) Construction observation.

28

1 7. Section 5536, subdivision (a) states:

2 (a) It is a misdemeanor, punishable by a fine of not less than one hundred
3 dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in
4 a county jail not exceeding one year, or by both that fine and imprisonment, for any
5 person who is not licensed to practice architecture under this chapter to practice
6 architecture in this state, to use any term confusingly similar to the word architect,
7 to use the stamp of a licensed architect, as provided in Section 5536.1, or to
8 advertise or put out any sign, card, or other device that might indicate to the public
9 that he or she is an architect, that he or she is qualified to engage in the practice of
10 architecture, or that he or she is an architectural designer.

11 8. Section 5536.1 states:

12 (a) All persons preparing or being in responsible control of plans,
13 specifications, and instruments of service for others shall sign those plans,
14 specifications, and instruments of service and all contracts therefore, and if licensed
15 under this chapter shall affix a stamp, which complies with subdivision (b), to those
16 plans, specifications, and instruments of service, as evidence of the person's
17 responsibility for those documents. Failure of any person to comply with this
18 subdivision is a misdemeanor punishable as provided in Section 5536. This section
19 shall not apply to employees of persons licensed under this chapter while acting
20 within the course of their employment.

21 (b) For the purposes of this chapter, any stamp used by any architect
22 licensed under this chapter shall be of a design authorized by the board which shall
23 at a minimum bear the licensee's name, his or her license number, the legend
24 "licensed architect" and the legend "State of California," and which shall provide a
25 means of indicating the renewal date of the license.

26 (c) The preparation of plans, specifications, or instruments of service for
27 any building, except the buildings described in Section 5537, by any person who is
28 not licensed to practice architecture in this state, is a misdemeanor punishable as
29 provided in Section 5536.

30 (d) The board may adopt regulations necessary for the implementation of
31 this section.

32 9. Section 5553 states in pertinent part:

33 Issuance of a license may be denied if evidence is received by the board of
34 the commission or doing by the applicant of any act which, if committed or done by
35 the holder of a license, would be grounds for suspension or revocation of that
36 license. . . .

37 10. Section 5578 states:

38 The fact that the holder of a license is practicing in violation of the
39 provisions of this chapter constitutes a ground for disciplinary action.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, (Regulations) section 110 states:

For purposes of denial, suspension, or revocation of the license of an architect pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions and duties of an architect if to a substantial degree it evidences present or potential unfitness of an architect to perform the functions authorized by his/her license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(a) Any violation of the provisions of Chapter 3, Division 3 of the Business and Professions Code.

12. Regulations, section 110.1, subdivision (a) states in pertinent part:

(a) When considering the denial of an architect's license under Section 480 of the . . . Code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) . . . under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) . . . under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the . . . Code.

(3) The time that has elapsed since commission of the act(s) . . . referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

13. Regulations, section 160 states in pertinent part:

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

....

(b) Willful Misconduct:

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

....

1 (d) Full disclosure:

2 (1) An architect shall accurately represent to a prospective or existing client
3 or employer his or her qualifications and the scope of his or her responsibility in
4 connection with projects or services for which he or she is claiming credit.

4
5 **FACTS**

6 14. On June 14, 1982, the Board issued architect license number C-12989 to Respondent.
7 The license expired on May 31, 1987, and was not renewed. Thereafter, while the license
8 remained expired, Respondent prepared a set of plans dated June 15, 2000, for a project on Ruelle
9 Nicole, in La Jolla, California. The plans prepared by Respondent bore a stamp that read
10 "Licensed Architect," "Scott A. Spencer," "No. C 12989," the legend "State of California," and
11 Respondent's signature. Respondent prepared a contract, business card, and letterhead using the
12 terms "architect" and "architectural." On December 1, 2003, an internet search revealed that
13 Respondent's Smart.Yellow Pages advertisement referred to Respondent as "Scott Spencer,
14 Architect." On April 2, 2004, the Board issued Citation No. 04-11, which charged Respondent
15 with violating Code sections 5536, subdivisions (a) and (b), ordered Respondent to cease and
16 desist from violating these sections of the Code, and imposed civil penalties against Respondent
17 totaling \$2,500, which Respondent paid on May 10, 2004.

18 15. On or about August 10, 2004, Respondent entered into a written contract with F-K. &
19 J.T. to design and provide construction documents for a single family residence of approximately
20 5,000 square feet to be located on Via Grimaldi in Del Mar, California. On or about November
21 10, 2008, Respondent prepared plans for the Via Grimaldi residence. The title block on the plans
22 contained the following language: "Scott A. Spencer & Associates Architecture Planning."

23 16. On or about January 29, 2009, Respondent appeared before a Project Review
24 Committee (PRC) Meeting of the Torrey Pines Community Planning Group in Del Mar to present
25 and describe the project for the Via Grimaldi residence in order to obtain its approval for the
26 residence to be built. At that meeting, Respondent identified, represented, and held himself out as
27 an architect.
28

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 (Acts Constituting Grounds for Suspension or Revocation of Licensure)

3 17. Respondent's application is subject to denial under Code sections 480, subdivision
4 (a)(3)(A) and 5553, in that Respondent did an act which if done by a licensee would be cause for
5 discipline under section 5578 for violation of Code sections 5536 and 5536.1, which are
6 provisions of the chapter, by holding himself out as an architect; representing himself to be a
7 California licensed architect qualified to engage in the practice of architecture, or that he was an
8 architectural designer; and preparing and submitting plans for PRC approval, when, in fact, he has
9 not been licensed as an architect since June 1, 1987, as detailed in paragraphs 14—16.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 (Acts Involving Dishonesty or Deceit)

12 18. Respondent's application is subject to denial under Code section 480, subdivision
13 (a)(2), in that Respondent did an act involving dishonesty, fraud or deceit with the intent to
14 substantially benefit himself or another, or substantially injure another by representing himself to
15 be a California licensed architect, and preparing and submitting plans which contained the word
16 "Architecture" in the title block for PRC approval that might indicate to the public that he was an
17 architect, that he was qualified to engage in the practice of architecture, or that he was an
18 architectural designer, when, in fact, he has not been so licensed since June 1, 1987, as detailed in
19 paragraphs 14—16.

20 **THIRD CAUSE FOR DENIAL OF APPLICATION**

21 (Violation of Regulations)

22 19. Respondent's application is subject to denial under Code sections 480, subdivision
23 (a)(3)(A) and 5553, in that Respondent did an act which if done by a licensee would be cause for
24 discipline under section 5578 by violating Regulations, Section 160, subsections (b) and (d), by
25 engaging in willful misconduct and inaccurately representing to clients his qualifications,
26 respectively, as detailed in paragraphs 14—16.


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PRAYER

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

1. Denying the application of Scott Spencer for an Architect License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: November 3, 2011


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

SD2011800947