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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 Accusation Against:

Case No. 11-10-211

12 **STEVE C. THOMPSON**
13 **d.b.a. Thompson Design Associates**
14 **90 Adams Avenue**
15 **Mill Valley, California 94941**

A C C U S A T I O N

16 **Architect License No. C-5746,**

Respondent.

17 Complainant Douglas R. McCauley alleges:

18 **I. PARTIES**

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

21 2. On or about October 7, 1968, the Board issued Architect License No. C-5746 to
22 respondent Steve C. Thompson, d.b.a. Thompson Design Associates. This architect license was
23 in full force and effect at all times relevant to the charges brought in this accusation and will
24 expire on June 30, 2017, unless renewed.

25 **II. 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 4. Section 118, subdivision (b), states:

2 “The suspension, expiration, or forfeiture by operation of law of a license issued by a
3 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
4 order of a court of law, or its surrender without the written consent of the board, shall not, during
5 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
6 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
7 provided by law or to enter an order suspending or revoking the license or otherwise taking
8 disciplinary action against the licensee on any such ground.”

9 5. Section 5525 states:

10 “The board may prosecute all persons guilty of violating the provisions of this chapter.
11 Except as provided in Section 159.5, the board may employ inspectors, special agents,
12 investigators, and such clerical assistants as it may deem necessary to carry into effect the
13 provisions of this chapter. It may also fix the compensation to be paid for such services and incur
14 such additional expense as may be deemed necessary.”

15 6. Section 5560 states:

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

20 **III. STATUTORY AND REGULATORY AUTHORITY**

21 7. Section 5536.22 states in part:

22 “(a) An architect shall use a written contract when contracting to provide professional
23 services to a client pursuant to this chapter. That written contract shall be executed by the
24 architect and the client, or his or her representative, prior to the architect commencing work,
25 unless the client knowingly states in writing that work may be commenced before the contract is
26 executed. The written contract shall include, but not be limited to, all of the following items:

27 ...

28 “(4) A description of the procedure that the architect and the client will use to

1 accommodate additional services.

2 “(5) A description of the procedure to be used by either party to terminate the contract.”

3 ...

4 8. Section 5578 states:

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

7 9. Section 5584 states:

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

10 10. Section 5588 states in part:

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

17 ...

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

20 11. California Code of Regulations, title 16, section 160, states in part:

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

24 ...

25 “(f) Informed Consent:

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

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IV. COST RECOVERY

12. Section 125.3, subdivision (a), states:

“Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceedings, the administrative law judge may 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.”

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V. FACTUAL BACKGROUND

13. In March 2003, respondent submitted a design proposal to prepare architectural construction documents for a remodel and addition to a house in Mill Valley, California. The proposal, signed by respondent but not by the homeowners, identified the hourly billing rates and stated that the construction budget would be established as the design work progressed. The proposal did not describe the procedure that respondent and the homeowner would use to accommodate additional services, nor did it describe the procedure to be used by either party to terminate services. Nevertheless, based on this design proposal, the parties maintained a professional relationship for approximately four years and the homeowners paid respondent approximately \$24,500 in architectural fees.

14. In May 2003, respondent completed preliminary project drawings. The homeowners had told respondent that their project budget was approximately \$500,000; respondent originally estimated that the project could be completed for approximately \$513,375.

15. In 2005, respondent completed and submitted building permit application drawings for the project. These drawings included some revisions to the original preliminary drawings from 2003. Respondent estimated that the total cost of the project under the permit drawings to be between \$838,078 and \$1,022,508. He also estimated that the total cost of the original project proposed in 2003 to be between \$788,861 and \$941,814. Respondent did not inform the homeowners of these estimated increased total costs.

16. Construction began in August 2006. Very soon after construction began, the contractor found dry rot and suggested demolishing the house to its foundation and rebuilding.

1 After consulting with respondent, the homeowners agreed to the demolition. Respondent did not
2 explain to the homeowners that demolishing and rebuilding the house would result in significant
3 scope of work, cost, and schedule increases.

4 17. In February 2007, respondent completed revisions to the permit drawings to
5 account for the demolition and reconstruction of the house. Respondent did not obtain the
6 homeowners' written consent before altering the permit drawings, nor had he obtained their
7 written consent before the house was demolished.

8 18. The homeowners terminated respondent shortly after he completed the revised
9 permit drawings, in part for failing to meet their budget expectations. In October 2008 they sued
10 respondent in [*Homeowner*], *et al. v. Steve C. Thompson, doing business as Thompson Design*
11 *Associates, et al.*, Marin County Superior Court Case No. CV0851317. A jury in March 2011
12 found that respondent had been negligent and breached the contract with the homeowners, and on
13 May 17, 2011, respondent was ordered to pay the homeowners \$287,500 in damages. On
14 September 20, 2011, respondent informed the Board about the verdict and judgment.

15 19. A Board investigator interviewed respondent in August 2013. Respondent said
16 that in 2003 he orally told the homeowners that the project would cost a bit more than \$500,000.
17 He admitted that he never told the homeowners about any of the estimated increased costs.

18 VI. CAUSES FOR DISCIPLINE

19 First Cause for Discipline 20 Failure to Comply with Contract Requirements 21 Business and Professions Code sections 5578, 5536.22, subdivision (a)(4) and (5)

22 20. The allegations of paragraphs 13-19 are realleged and incorporated by reference as
23 fully set forth.

24 21. Respondent has subjected his architect license to discipline for failing to comply
25 with the statutory requirements for a contract (Bus. & Prof. Code, §§ 5578, 5536.22, subd. (a)(4)
26 & (5)). Respondent's design proposal, which was not signed by the homeowners but was used to
27 create a professional relationship between respondent and the homeowners, did not describe the
28 procedure that respondent and the homeowner would use to accommodate additional services,
and did not describe the procedure to be used by either party to terminate those services.

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**Second Cause for Discipline
Willful Misconduct
Business and Professions Code section 5584**

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22. The allegations of paragraphs 13-19 are realleged and incorporated by reference as if fully set forth.

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23. Respondent has subjected his architect license to discipline for willful misconduct (Bus. & Prof. Code, § 5584). Respondent disregarded the homeowners' budget as the project progressed. He did not inform the homeowners of the increased estimated costs of the project, and he did not establish the construction budget as the design work progressed as stated in the 2003 design proposal.

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**Third Cause for Discipline
Willful Misconduct
Business and Professions Code section 5584**

24. The allegations of paragraphs 13-19 are realleged and incorporated by reference as if fully set forth.

25. Respondent has subjected his architect license to discipline for willful misconduct (Bus. & Prof. Code, § 5584). After the contractor suggested demolishing the house to its foundation and rebuilding, respondent did not explain to the homeowners that demolishing and rebuilding the house would result in significant scope of work, cost, and schedule increases.

**Fourth Cause for Discipline
Failure to Inform and Obtain Written Consent Before Altering Project
California Code of Regulations, title 16, section 160, subdivision (f)(1)**

26. The allegations of paragraphs 13-19 are realleged and incorporated by reference as if fully set forth.

27. Respondent has subjected his architect license to discipline for failing to inform the homeowners and obtain their written consent before materially altering the scope or objective of a project (Cal. Code Regs., tit. 16, § 160, subd. (f)(1)). After the contractor suggested demolishing the house to its foundation and rebuilding, respondent did not obtain the homeowners' written consent before the house was demolished or before he altered the permit drawing to account for the demolition and reconstruction of the house.

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**Fifth Cause for Discipline
Failing to Report Judgment to the Board
Business and Professions Code section 5588**

28. The allegations of paragraphs 13-19 are realleged and incorporated by reference as if fully set forth.

29. Respondent has subjected his architect license to discipline for failing to report to the Board in writing within 30 days a judgment of \$5,000 or greater against him in an action alleging negligence in the practice of architecture (Bus. & Prof. Code, § 5588). A jury in March 2011 found that respondent had been negligent and breached the contract with the homeowners, and on May 17, 2011, respondent was ordered to pay the homeowners \$287,500 in damages. On September 20, 2011, respondent informed the Board about the verdict and judgment.

VII. PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing, the California Architects Board issues a decision:

1. Revoking or suspending Architect License No. C-5746 issued to respondent Steve C. Thompson, d.b.a. Thompson Design Associates;
2. Ordering respondent Steve C. Thompson, d.b.a. Thompson Design Associates, under Business and Professions Code section 125.3 to pay the California Architects Board the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: November 2, 2015 Douglas R. McCauley
DOUGLAS R. McCAULEY
Executive Officer
California Architects Board
Department of Consumer Affairs
State of California
Complainant

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