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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 No. 10-04-85

11 **BOBBY KNOX**
12 **3763 Griffith View Drive**
13 **Los Angeles, CA 90039**

FIRST AMENDED ACCUSATION

14 **Architect License No. C-12197**

15 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about September 1, 1981, the California Architects Board issued Architect
25 License Number C-12197 to Bobby Knox (Respondent). The Architect License was in full force
26 and effect at all times relevant to the charges brought herein and will expire on January 31, 2017,
27 unless renewed.

1 **JURISDICTION**

2 3. This Accusation is brought before the California Architects Board (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 5500 states: "As used in this chapter [Chapter 3 (commencing with Section
6 5500)], architect means a person who is licensed to practice architecture in this state under the
7 authority of this chapter."

8 5. Section 5558 states: Each person holding a license to practice architecture under this
9 chapter shall file with the board his or her current mailing address and the proper and current
10 name and address of the entity through which he or she provides architectural services. For
11 purposes of this section, "entity" means any individual, firm, corporation, or limited liability
12 partnership.

13 6. Section 5578 states: "The fact that the holder of a license is practicing in violation of
14 the provisions of this chapter constitutes a ground for disciplinary action."

15 7. Section 5584 states: "The fact that, in the practice of architecture, the holder of a
16 license has been guilty of negligence or willful misconduct constitutes a ground for disciplinary
17 action."

18 8. Section 5588 states:

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

25 (b) The report required by subdivision (a) shall be signed by the licensee and shall set forth
26 the facts that constitute the reportable event. If the reportable event involves the action of an
27 administrative agency or court, the report shall set forth all of the following:

28 (1) The title of the matter,

1 (2) The court or agency name.

2 (3) The docket number.

3 (4) The claim or file number.

4 (5) The date on which the reportable event occurred.

5 (c) A licensee shall promptly respond to oral or written inquiries from the board concerning
6 the reportable events, including inquiries made by the board in conjunction with license renewal.

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

9 (e) Any licensee who fails to comply with this section may be subject to a civil penalty of
10 not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) as an
11 additional intermediate sanction imposed by the board in lieu of revoking the licensee's license.
12 Any licensee who knowingly and intentionally fails to comply with this section may be subject to
13 a civil penalty of up to twenty thousand dollars (\$20,000) as an additional intermediate sanction
14 imposed by the board in lieu of revoking the licensee's license.

15 9. California Code of Regulations, title 16, section 150 states:

16 "Willful misconduct includes the violation by an architect of a provision of the agreement
17 with a client if:

18 "(1) the architect has full knowledge that the conduct or omission is a violation of the
19 agreement, and

20 "(2) the architect has made no reasonable effort to inform the client of the conduct or
21 omission."

22 10. California Code of Regulations, title 16, section 160 states, in pertinent part:

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

26 (a) Competence:

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1 (1) An architect shall undertake to perform professional services only when he or she,
2 together with those whom the architect may engage as consultants, are qualified by education,
3 training, and experience in the specific technical areas involved.

4 (2) In addition to subsection (a)(1) above, when practicing architecture, an architect shall act
5 with reasonable care and competence, and shall apply the technical knowledge and skill which is
6 ordinarily applied by architects of good standing, practicing in this state under similar
7 circumstances and conditions.

8 (b) Willful Misconduct:

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

14 (2) Whenever the Board is conducting an investigation, an architect or a candidate for
15 licensure shall respond to the Board's requests for information and/or evidence within 30 days of
16 the date mailed to or personally delivered on the architect or a candidate for licensure.

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18 (f) Informed Consent:

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

21 11. Section 118, subdivision (b), of the Code provides that the
22 suspension/expiration/surrender/cancellation of a license shall not deprive the
23 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
24 within which the license may be renewed, restored, reissued or reinstated.

25 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 13. Government Code section 11519, subdivision (d), provides that the Board may
4 require restitution of damages suffered as a condition of probation in the event probation is
5 ordered.

6 **BERGMAN PROJECT**

7 14. In early 2003, Respondent, a Los Angeles based architect, was asked by a Beverly
8 Hills contractor/friend, (J.P.¹), to provide construction documents for a new residence located at
9 7870 Sterling Drive, Oakland, California (subject property) to replace one lost by a Oakland,
10 California family (J.C.²) following a fire in December of 2002. At that time, the original
11 contractor, J.P. of Diversified Products Industries (Diversified), was an authorized
12 dealer/constructor for the "R-Control" SIP³ system proposed for constructing the new residence.

13 15. On or about February of 2003, J.C. executed a "Letter of Agreement" with the
14 Respondent to provide design and construction document services on the project.

15 16. On or about June of 2003, Respondent completed construction documents including
16 drawings and calculations for the new residence and they were submitted to the City of Oakland
17 for plan check. Reportedly, the documents were approved by the city in early August 2003, and
18 construction commenced shortly thereafter.

19 17. A Notice of Completion was filed on or about October 20, 2003 for project Phase I
20 that included site preparation and construction of foundations for the panelized structure.
21 Financing and payment issues developed between J.C. and Diversified in September 2003. The
22 central issue in their dispute was Change Order No.1 for over \$50,000 additional costs for
23 excavation and removal of 200 yards of contaminated loose soil, importation of approximately
24 200 cubic yards of engineered fill, and backfilling approximately 100 cubic yards of crushed rock

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26 ¹ In order to protect the privacy of the individual, the first and last name initials are used for the purpose of
identification.

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identification.

28 ³ Structural Insulated Panel

1 in the garage area.

2 18. On or about December 16, 2003, Diversified recorded a Mechanic's Lien on the
3 subject property and subsequently, filed a lawsuit on March 12, 2004 to recover unpaid labor,
4 services, equipment, and materials provided on the project. On or about October 30, 2006, a court
5 ordered judgment was entered in favor of Diversified. J.C. lost the subject property through a
6 bankruptcy proceeding. The Court auctioned the subject property and J.B.⁴ was the successful
7 bidder.

8 19. On or about 2007, J.B. acquired the subject property via a court auction. In June,
9 2007, J.B. requested that Respondent sign a form authorizing the release of the J.C. residence
10 construction documents. After receiving the documents, J.B. sent out bid requests for estimates to
11 finish construction on the residence in August of 2007 and ultimately selected Valuebuild Panel
12 Homes.

13 20. On or about September 21, 2007, J.B. requested that Respondent make changes in the
14 floor framing system and requested that he send a contract for the requested changes. J.B. also
15 sent twenty color photographs of the existing site conditions showing the extent of the existing
16 foundation work completed by Diversified in 2003/2004. Respondent never visited the subject
17 property. These photographs are the only documented exchange of information regarding site
18 conditions between the parties on or about 2007. J.B. was surprised that Respondent did not
19 question the obvious changes or seek other information to determine the condition of the subject
20 property on or about September 21, 2007.

21 21. On or about October 4, 2007, Respondent sent a fee proposal to J.B. for the services
22 requested on the project and estimated that the revisions would take 5-7 working days. In
23 addition to revising all framing plan sheets, the building sections and the details were to be
24 revised according to the fee proposal breakdown. The proposed fee totaled \$4,150, which
25 included \$1,600 for structural calculations. The Letter of Agreement was executed by the parties
26 the following day.

27 ⁴ In order to protect the privacy of the individual, the first and last name initials are used for the purpose of
28 identification.

1 22. On or about November 1, 2007, Respondent reported completing the drawings
2 pursuant to his Letter of Agreement with J.B., and indicated that he would send a copy of said
3 drawings by November 5, 2007.

4 23. On or about January of 2008, J.B. began working with the City of Oakland to obtain a
5 permit. On or about January 2, 2008, City of Oakland Planning Department approval was
6 achieved. On or about January 28, 2008, the documents were submitted to the building
7 department for construction permit plan check.

8 24. On or about March of 2008, J.B. requested that Respondent provide revised structural
9 calculations to the city in order to be in compliance with the "new" 2007 California Building
10 Code (CBC). J.B. and the Respondent argued throughout 2008 about the city needing new
11 calculations for plan check. On or about December 2008, Respondent delivered the revised
12 structural calculations to J.B. The project was delayed for approximately one year while the
13 parties argued over responsibility for the revised structural calculations. J.B. reported getting the
14 permit from the City of Oakland for the project on March 3, 2009.

15 25. On or about June of 2009, construction commenced. Soon thereafter, J.B. discovered
16 there were problems with the foundation. Accordingly, on June 21, 2009 and June 22, 2009, J.B.
17 notified the Respondent that there was a problem with the foundation. J.B. wanted to keep the
18 room layouts and sizes as shown on the approved 2007 plans and he inquired "[C]an we support
19 the floor and walls with the current layout..." It should be noted that the existing foundation for
20 the major east-west shear wall was not in the place shown on the Respondent's new [2007 and
21 2008 permitted] drawings. The actual location of the existing foundation for this shear wall is
22 actually \pm 2 feet 6 inches south of where it is shown in the currently permitted drawings and
23 exactly where it was originally shown in 2003 drawings. Respondent erroneously assumed the
24 foundation had changed location and design from that depicted on his original 2003 plans. The
25 photographs sent to Respondent should have placed him on notice of possible changes to the
26 plans and should have prompted further inquiry or even a site inspection prior to his preparation
27 of the new construction documents.

28 26. On June 25, 2009, J.B. traveled to Los Angeles for first of the two meetings with the

1 Respondent to resolve the discrepancies between the existing foundation and the locations shown
2 on the permitted construction documents.

3 27. Between 2009-2010, J.B. continued building the residence and attempted with little
4 success to obtain Respondent's assistance in solving the various problems created by his
5 erroneous assumptions about the existing foundation locations, the related wall/roof framing and
6 the uncoordinated construction drawings. The foundation errors are the primary source of the
7 problems with the project. In addition to the basic framing problems created by Respondent's
8 change in the drawings, there were numerous problems resulting from the lack of attention to
9 detail and follow-through on all aspects of construction document coordination. Each and every
10 one of these issues are not singled out as part of this finding, but were considered in total as
11 aggravating factors⁵ in the dispute and that Respondent failed to exercise responsible control over
12 the project from the very beginning.

13 28. The relationship between the parties ultimately deteriorated to the point where the
14 matter was heard by an arbitrator, who rendered a judgment in favor of J.B. in the amount of
15 \$106,703.32.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Negligence)**

18 29. Respondent is subject to disciplinary action under section 5584 of the Code in
19 conjunction with California Code of regulations, section 160, subsections (a)(2) and (f)(1) of the
20 Rules of Professional Conduct, in that with respect to the Bergman Project, he committed acts of
21 negligence and/or willful misconduct during the course of providing architectural services as
22 follows:

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24 ⁵ These aggravating deficiencies were identified by J.B. in his complaint filed with the Board, as
25 follows:...(10) the study's window and entry door did not meet the egress standard; (12) the current design of the roof
26 panels will not work; the termination point of the valley over the master bedroom is incompatible with the plane line
27 for the roof coming off the great room and cannot meet with the plane line coming off the master bedroom; (13) there
28 are three separate beams that come at one point with no detail of how they are to be connected with each other with
the other valley beam in the great room; (14) the ridge beam located on page A-2.5 Roof/Ceiling Framing Plan Over
Street Level Floor Plan was located at the roof; (15) the north and south elevations have different ridge lines; (16)
front deck and door on the south-elevation didn't match the floor plan; and (17) shear wall markings were incorrect.

1 a. Respondent failed to exercise reasonable care and competence in evaluating
2 existing conditions that were shown to be significantly different from his original 2003 plans.
3 Specifically, when presented with photos of the existing site conditions, Respondent noticed there
4 were changes made to the foundation system during the first construction phase by the original
5 contractor. *A reasonable and prudent* architect would have asked many questions seeking
6 clarification of the “what and why” for these changes. Rather than investigate the facts and
7 circumstances underlying the changes, he made assumptions about what had been done and
8 proceeded to make changes to the foundation system and to the floor plan layouts of the proposed
9 residence, which resulted in material financial injury to J.B.

10 b. Respondent made various changes to the foundation system layout and the floor
11 plan designs for the proposed residence without consulting the property owner, which resulted in
12 additional framing costs as well as a revision in materials that increased costs for structural
13 insulated panels by \$23,860. J.B. had only requested Respondent to make changes to the floor
14 framing system to accommodate the requirements of his newly selected SIP
15 manufacturer/supplier. Respondent never notified or made J.B. aware of the changes he was
16 making to the foundation and floor plan layouts of his residence. In order to construct the floor
17 plan layout as shown in the 2007/2008 construction documents, foundation and floor framing
18 changes were required to be made in the field. These changes resulted in \$11,435.37 in additional
19 framing costs for J.B.

20 c. Respondent willfully failed to provide various contracted services in a timely
21 manner as follows:

22 i. Respondent failed to alert J.B. to the pending January 1, 2008 transition to
23 the new 2007 CBC and to the corresponding significance of applying for
24 a permit before year end when he provided him with construction
25 documents in mid December 2007. On or about January 28, 2008, J.B.
26 submitted documents to the building department for plan check. By
27 March 2008, Oakland City Building Department informed J.B. that the
28 structural calculations submitted needed to be updated to reflect the new

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2007 CBC. Respondent was immediately informed of this request from the city. He was notified at least five times by e-mail. Respondent's contract for basic services required him to prepare drawings and calculations as required by the city to issue a permit.

ii. Respondent reported completing the revised calculations in March of 2008, but did not deliver them to the project owner until December of 2008, which resulted in financial harm to the project owner. This unjustified 9- month delay in providing the information necessary for obtaining the project construction permit resulted in monetary damages to J.B. This unjustified delaying behavior by Respondent is deemed to be willful misconduct in the practice.

d. During the course of construction in 2009-2010, numerous document deficiencies, errors and omissions were discovered that resulted from Respondent's failure to coordinate the foundation and floor plan changes throughout the documents to mitigate impacts of the changes to the superstructure, openings, etc. These "collateral issues" had to be resolved "in the field" and Respondent was less than cooperative participant in the resolution process. His failure to coordinate constitutes a failure to exercise the degree of responsible control over the changes he made to his documents that one would expect from a competent architect.

e. Respondent provided J.B. with copies of the original 2003 drawings for the proposed residence to assist him in getting bids from potential SIP manufacturers. At J.B.'s direction, Respondent sent PDF files of the 2003 drawings to one such panel company. With no notification from the Respondent that he was in the process of changing the foundation and floor plan layouts for the residence, J.B. proceeded to bid the SIP superstructure, select a SIP manufacturer and actually place an order for material based on these 2003 drawings. When the foundation and floor plan changes were discovered during construction, this material order had to be revised, which reportedly resulted in an increase of \$23,860 in SIP costs for J.B. Respondent's failure to inform J.B. of the plan changes to the 2003 design falls below the standard of care.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to File a Business Entity Report Form)

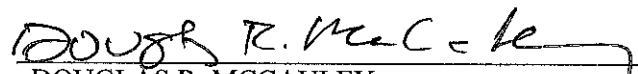
33. Respondent is subject to disciplinary action under section 5578 for failure to comply with section 5558, in that he failed to file with the Board a business entity report form with the proper and current name, and the current address of the business entity through which he has been providing architectural services.

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-12197, issued to Bobby Knox;
2. Ordering Bobby Knox to pay the California Architects Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/4/2015



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

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