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

10 In the Matter of the Accusation Against:

Case No. 09-07-158

11 **DEFAULT DECISION AND ORDER**

12 **RYUJI TSUYUKI**
13 **P.O. Box 641277**
14 **Los Angeles, CA 90064**
15 **Architect License No. C-18519**

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

18 1. On or about February 10, 2011, Complainant Douglas R. McCauley, in his official
19 capacity as the Executive Officer of the California Architects Board (Board), Department of
20 Consumer Affairs, filed Accusation No. 09-07-158 against Ryuji Tsuyuki (Respondent) before
21 the Board. (Accusation attached as Exhibit A.)

22 2. On or about July 22, 1987, the Board issued Architect License No. C-18519 to
23 Respondent. The Architect License was in full force and effect at all times relevant to the charges
24 brought herein and expires on March 31, 2013, unless renewed.

25 3. On or about February 17, 2011, Respondent was served by Certified and First Class
26 Mail copies of the Accusation Case No. 09-07-158, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
Code (BPC) section 5558 and California Code of Regulations (CCR), Title 16, section 104, is

1 required to be reported and maintained with the Board, which was: 16901 S. Western Avenue,
2 #100; Gardena, CA 90247. Respondent was also served at the address: 2349 S. Beverly Glen,
3 #202; Los Angeles, CA 90064.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or BPC section 124.

6 5. On or about February 25, 2011, the First Class mailing to the Gardena address of
7 record was returned marked "Forwarding Order Expired" by the U. S. Postal Service. On or
8 about April 6, 2011, the aforementioned documents mailed by Certified and First Class Mail to
9 the Beverly Glen address were returned by the U.S. Postal Service marked "No Forwarding
10 Address."

11 6. On or about May 19, 2011, Respondent was served by Certified and First Class Mail
12 copies of the Accusation Case No.09-07-158, Statement to Respondent, Notice of Defense,
13 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
14 and 11507.7) at the address: P.O. Box 64127; Los Angeles, CA 90064. Respondent was also
15 served by First Class Mail at the address: 4-1033 Jjuji, Odawa-ku; Kanagawa 250-0040 Japan.

16 7. On or about June 1, 2011, the certified mailing return receipt for the post office box
17 domestic mailing was returned bearing a signature and date "5/29/11." The mailings to Japan
18 have not been returned by the post office.

19 8. On or about July 20, 2011, Respondent was served by Certified and First Class Mail
20 copies of the Accusation Case No. 09-07-158, Statement to Respondent, Notice of Defense,
21 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
22 and 11507.7) at the address: P.O. Box 641277; Los Angeles, CA 90064. Respondent was also
23 served by First Class Mail at the address: 4-1033 Jyuji, Odawa-ku; Kanagawa 250-0046 Japan.
24 The certified mailing return receipt for the post office box domestic mailing was returned bearing
25 a signature and a date "8/9/11." The mailings to Japan have not been returned by the post office.

26 9. Respondent failed to maintain an updated address with the Board and the Board has
27 made attempts to serve the Respondent at the address of record. Respondent has not made
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1 himself available for service and therefore, has not availed himself of his right to file a Notice of
2 Defense and appear at hearing.

3 10. Government Code section 11506 states, in pertinent part:

4 (c) The respondent shall be entitled to a hearing on the merits if the respondent
5 files a notice of defense, and the notice shall be deemed a specific denial of all parts
6 of the accusation not expressly admitted. Failure to file a notice of defense shall
7 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
8 may nevertheless grant a hearing.

9 11. Respondent failed to file a Notice of Defense within 15 days after service upon him
10 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation Case
11 No. 09-07-158.

12 12. Government Code section 11520 states, in pertinent part:

13 (a) If the respondent either fails to file a notice of defense or to appear at the
14 hearing, the agency may take action based upon the respondent's express admissions
15 or upon other evidence and affidavits may be used as evidence without any notice to
16 respondent.

17 13. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
20 as well as taking official notice of all the investigatory reports, exhibits and statements contained
21 therein on file at the Board's office regarding the allegations contained in Accusation No. 09-07-
22 158, finds that the charges and allegations in Accusation Case No. 09-07-158, are separately and
23 severally, found to be true and correct by clear and convincing evidence.

24 14. Taking official notice of its own internal records, pursuant to BPC section 125.3, it is
25 hereby determined that the reasonable costs for investigation is \$2,105 as of April 8, 2011.

26 DETERMINATION OF ISSUES

27 1. Based on the foregoing findings of fact, Respondent has subjected his Architect
28 License Case No. 09-07-158 to discipline.

1. The agency has jurisdiction to adjudicate this case by default.

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8 **BEFORE THE**
CALIFORNIA ARCHITECTS BOARD
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 09-07-158

12 **RYUJI TSUYUKI**
16901 S. Western Avenue, #100
13 Gardena, CA 90247
14 Architect License No. C-18519

A C C U S A T I O N

Respondent.

15
16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about July 22, 1987, the Board issued Architect License Number C-18519 to
22 Ryuji Tsuyuki (Respondent). The Architect License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board, under the authority of the following
26 laws. All section references are to the Business and Professions Code (Code) unless otherwise
27 indicated.
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1 4. Section 118, subdivision (b), of the Code provides that the suspension/ expiration/
2 surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to
3 proceed with a disciplinary action during the period within which the license may be renewed,
4 restored, reissued or reinstated.

5 5. Section 150 of the Code states: "The department is under the control of a civil
6 executive officer who is known as the Director of Consumer Affairs."

7 6. Section 22 of the Code states:

8 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the
9 administration of the provision is vested, and unless otherwise expressly provided, shall include
10 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
11 'agency.'

12 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
13 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
14 (commencing with Section 473), is taken over by the department, that program shall be
15 designated as a 'bureau.'"

16 7. Section 477 of the Code states:

17 As used in this division:

18 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
19 'examining committee,' 'program,' and 'agency.'

20 "(b) 'License' includes certificate, registration or other means to engage in a
21 business or profession regulated by this code."

22 8. Section 5555 states: "Licenses to practice architecture remain in full force until
23 revoked or suspended for cause, or until they expire, as provided in this chapter [Chapter 3
24 (commencing with Section 5500)]."

25 9. Section 5560 states: "The board may upon its own motion, and shall upon the
26 verified complaint in writing of any person, investigate the actions of any architect and may
27 temporarily suspend or permanently revoke, the license of any architect who is guilty of, or
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1 commits one or more of, the acts or omissions constituting grounds for disciplinary action under
2 this chapter [Chapter 3 (commencing with section 5500)]."

3 10. Section 5526 directs the Board to adopt rules and regulations governing the practice
4 of architecture. Subdivision (b) requires that "[e]very person who holds a license issued by the
5 board shall be governed and controlled by these rules."

6 STATUTORY REGULATORY PROVISIONS

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

9 12. Section 5584 states: "The fact that, in the practice of architecture, the holder of a
10 license has been guilty of negligence or willful misconduct constitutes a ground for disciplinary
11 action."

12 13. California Code of Regulations, title 16, section 150 states:

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

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

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

19 14. California Code of Regulations, title 16, section 160, subpart (b)(2), "Willful
20 Misconduct", states:

21 "Whenever the Board is conducting an investigation, an architect or a candidate for
22 licensure shall respond to the Board's requests for information and/or evidence within 30 days of
23 the date mailed to or personally delivered on the architect or a candidate for licensure."

24 COST RECOVERY

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

1 FIRST CAUSE FOR DISCIPLINE

2 (Willful Misconduct)

3 16. Respondent is subject to disciplinary action under sections 5560, 5578, and 5584 in
4 conjunction with Title 16 California Code of Regulations section 150, subpart (2) for willful
5 misconduct in that Respondent received valuable consideration from clients to perform
6 professional services, and willfully failed to perform the services or to return the consideration to
7 his clients. The circumstances are as follows:

8 17. In or about November, 2007, Paul K. and Ann Abe ("Homeowners") hired
9 Respondent to prepare architectural drawings to enlarge the kitchen and enlarge a room above
10 their garage in their residence located at 16700 E. Rocky Knoll Road, Hacienda Heights, CA.

11 18. The Homeowners paid Respondent \$6,000 by check dated November 17, 2007 and
12 \$9,000 by check dated June 17, 2008, for a total of \$15,000 consideration.

13 19. Respondent failed to complete the drawings and submit them to the city planning
14 authority over the course of two years. Respondent failed to return phone calls or respond to
15 emails from the Homeowners after February, 2009. Respondent returned only \$2,000 to the
16 Homeowners when they demanded that he return their consideration or they would file a civil
17 suit.

18 SECOND CAUSE FOR DISCIPLINE

19 (Failure to Timely Respond to Board Investigation)

20 20. Respondent is subject to disciplinary action under sections 5560, 5578, and 5584 in
21 conjunction with Title 16 California Code of Regulations section 160, subpart (b)(2) in that he
22 failed to respond to the Board's request for information in conjunction with its investigation of the
23 Homeowners' complaint within 30 thirty days of its written request. The circumstances are as
24 follows:

25 21. Complainant incorporates the preceding paragraphs 16 through 18 as though set forth
26 here. The Homeowners filed a consumer complaint with the Board on or about June 25, 2009.
27 By letter dated July 8, 2009, the Board wrote Respondent and requested his response to the
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1 allegations of the consumer complaint. Respondent failed to respond and the Board sent
2 additional letters in September and November, 2009 to Respondent.

3 22. By letter dated November 14, 2009, Respondent wrote the Board and stated that he
4 would need more time to respond and that he would be "out of the county for ODA project from
5 November 17..." and that he would be returning in early January, 2010 and would respond at that
6 time.

7 23. Respondent failed to respond to further requests by the Board in letters dated
8 February 11, 2010, April 28, 2010 and June 7, 2010, and e-mail dated June 3, 2010.

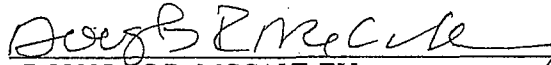
9 PRAYER

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

- 12 1. Revoking or suspending Architect License Number C-1 8519, issued to Ryuji
13 Tsuyuki;
- 14 2. Ordering Ryuji Tsuyuki to pay the Board the reasonable costs of the investigation and
15 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

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DATED: 2/10/2011


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

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