

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

In the Matter of the Accusation Against:

Case No. 06-09-198

BRYAN ALBERT OSBORN
P.O. Box 2556
Sebastopol, California 95473

Architect's License No. C-23628

Respondent:

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 10/1/2010.

It is so ORDERED 9/21/2010.


FOR THE CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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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. 06-09-198

11 **BRYAN ALBERT OSBORN**
12 **P.O. Box 2556**
13 **Sebastopol, California 95473**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 **Architect's License No. C-23628**

15 Respondent.

16
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. Douglas R. McCauley (Complainant) is the Executive Officer of the California
21 Architects Board (Board), Department of Consumer Affairs. He brought this action solely in his
22 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
23 the State of California, by Leslie E. Brast, Deputy Attorney General.

24 2. Respondent Bryan Albert Osborn (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about September 3, 1992, the Board issued Architect's License No. C-23628 to
27 Respondent. The license was in full force and effect at all times relevant to the charges brought
28 in Accusation No. 06-09-198 and will expire on April 30, 2011, unless renewed.

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

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

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

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

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Architect's License No. C-23628, issued to Respondent
21 Bryan Albert Osborn (Respondent), is revoked. However, the revocation is stayed and
22 Respondent is placed on probation for six (6) years on the following terms and conditions.

23 1. **Actual Suspension.** Respondent is suspended from the practice of architecture for 90
24 days beginning on the effective date of the Decision.

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

27 3. **Submit Quarterly Reports.** Respondent, within 10 days of completion of the
28 quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance

1 form (10/98) obtained from the Board.

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

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

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

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

26 8. **Completion of Probation.** Upon successful completion of probation, Respondent's
27 license will be fully restored.

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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: Sept 3, 2010

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



LESLIE E. BRAST
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 06-09-198

1 EDMUND G. BROWN JR.
Attorney General of California
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11 In the Matter of the Accusation Against:

Case No. 06-09-198

12 **BRYAN ALBERT OSBORN**
P.O. Box 2365
13 Sebastopol, California 95473

A C C U S A T I O N

14 Architect's License No. C23628

15
16 Respondent.

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 September 3, 1992, the Board issued Architect's License Number
23 C23628 to Bryan Albert Osborn (Respondent). The license was in full force and effect at all
24 times relevant to the charges brought herein and will expire on April 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 (Code) unless otherwise
28 indicated.

1 (a) Competence:

2 ...

3 (2) . . . [A]n architect shall act with reasonable care and competence, and shall apply the
4 technical knowledge and skill which is ordinarily applied by architects of good standing,
5 practicing in this state under similar circumstances and conditions.

6 (b) Willful Misconduct:

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

12 COST RECOVERY

13 10. Code section 125.3 provides that the Board may request the administrative law judge
14 to direct a licentiate found to have committed a violation or violations of the licensing act to pay a
15 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

16 FACTUAL BACKGROUND

17 11. On or about May 21, 2002, Respondent, who was also a licensed general building
18 contractor, entered into a written time and materials contract with Tor Perkins (Homeowner) for
19 architectural and general contracting services in connection with the remodel of the Homeowner’s
20 newly-purchased residence located at 266 Princeton Avenue, Mill Valley, California (Perkins
21 Project). Respondent estimated the projected total remodel cost at \$147,992.00, including
22 \$29,250.00 for architectural services as follows: Phase I—as-built drawings of the existing
23 property, including floor plans, and elevations; Phase II—preliminary design drawings of the
24 remodel including floor plans and exterior elevations; Phase III—design documents suitable for
25 building permit including site plan, floor plans, and elevations; two vertical sections; foundation
26 and framing plans; construction details; utilities/electrical plan; and specifications including
27 fixture, door, and window schedules. Pursuant to Part One, the “Architectural Services” portion
28 of the contract, modifications “will be specifically illustrated to the Owners and documented in

1 writing utilizing a 'Change Order' form or letter, per Article 6." The contract specified that the
2 remodel was to have been completed within 120 working days after commencement of
3 construction.

4 12. Construction on the Perkins Project commenced on or shortly after May 21, 2002.
5 Respondent did not complete design drawings and construction documents necessary to
6 adequately define the scope of work, clarify compliance with the Building Code, and obtain a
7 building permit. Respondent nevertheless commenced construction, although he knew that
8 building permits were required by law and that the drawings had not been reviewed or approved
9 by either the City or County building department.

10 13. Throughout the course of the contract, Respondent provided only a few freehand
11 sketches and four sheets of conceptual drawings illustrating the proposed master bath and living
12 room fireplace design. Sketch-design features which violated the California Building Code
13 included: 1) proposed stairs that did not include required handrails; 2) a proposed
14 bench/guardrail that did not include the proper degree of enclosure; and 3) extension of the
15 westerly deck adjacent to an existing window that did not include tempered glass—a design
16 feature implemented during construction operations.

17 14. Respondent did not adhere to the schedule required by the contract or keep the
18 Homeowner informed of the project's progress. He did not obtain the Homeowner's written
19 authorization for change orders and/or additional work before proceeding with such work.
20 Respondent abandoned the Perkins Project on or about January 24, 2003, approximately nine
21 months after the commencement of construction. The work had only progressed as far as the
22 installation of drywall in many areas of the house. In total, the Homeowner paid Respondent
23 approximately \$230,000.00 over the original design/build contract price.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Willful Misconduct: Violated Agreement)

3 15. Respondent is subject to disciplinary action under Code sections 5584 and/or 5578,
4 and pursuant to California Code of Regulations, title 16, section 150, in that he violated
5 provisions of his contract and agreement with the Homeowner on the Perkins Project, as
6 described in paragraphs 11 through 14, above.

7 SECOND CAUSE FOR DISCIPLINE

8 (Willful Misconduct: Violated Building Code)

9 16. Respondent is subject to disciplinary action under Code sections 5584 and/or 5578,
10 pursuant to California Code of Regulations, title 16, section 160, subdivision (b)(1), in that he
11 knowingly violated building laws, codes, and/or regulations in the provision of design/build
12 services on the Perkins Project, as described in paragraphs 12 and 13, above.

13 THIRD CAUSE FOR DISCIPLINE

14 (Negligence, Willful Misconduct and/or Incompetence: Errors and Omissions)

15 17. Respondent is subject to disciplinary action under Code sections 5584 and/or 5578,
16 pursuant to California Code of Regulations, title 16, section 160, subdivisions (a)(2) and/or (b)(1),
17 in that he made significant errors and omissions in the design and documentation of the Perkins
18 Project, as described in paragraphs 12 and 13, above.

19 DISCIPLINARY CONSIDERATIONS

20 18. On or about January 8, 1985, the Contractors State License Board issued Contractor's
21 License Number 467761 (General Building, Class B) to Respondent, d.b.a. Building Design
22 Company. On or about September 21, 2009, Respondent stipulated to the revocation of his
23 general building contractor license in resolution of a disciplinary action brought before the
24 Registrar of Contractors entitled *The Matter of the Accusation Against Bryan Osborn, D.B.A.*
25 *Building Design Company*, Case Number N2007-186, which resulted from the same facts set
26 forth herein related to the Perkins Project.

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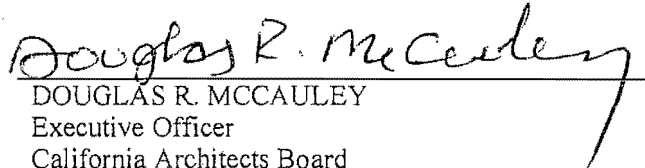
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PRAYER

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

1. Revoking or suspending Architect's License Number C23628, issued to Bryan Albert Osborn;
2. Ordering Bryan Albert Osborn to pay the 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: February 22, 2010


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

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