



**REGULATORY ENFORCEMENT
COMMITTEE MEETING
NOVEMBER 5, 2020**



Committee Members

Robert C. Pearman, Jr. Chair
Sylvia Kwan, Vice Chair
Fred Cullum
Cheryl DeMarco
Robert Ho
Ronald A. Jones
Sheran Voigt

NOTICE OF TELECONFERENCE MEETING

November 5, 2020

The Regulatory and Enforcement Committee (Committee) of the California Architects Board (Board) will meet by teleconference at

10:00 a.m., on Thursday, November 5, 2020

NOTE: Pursuant to Governor Gavin Newsom’s Executive Order [N-29-20](#), issued on March 17, 2020, this meeting will be held by teleconference with no physical public locations.

Important Notice to the Public: The Committee will hold a public meeting via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e548538d90f5178d6ad702e2816c3d4df>

Event/Meeting Number: 146 857 0497

Password: REC110520

Instructions to connect to the meeting can be found at the end of this agenda.

Due to potential technical difficulties, please consider submitting written comments by October 31, 2020, to cab@dca.ca.gov for consideration.

AGENDA

10:00 a.m. to 2:00 p.m.
(or until completion of business)

Action may be taken on any item listed below.

A. Call to Order / Roll Call / Establishment of a Quorum

(Continued)

- B. Chair's Procedural Remarks and Committee Member Introductory Comments
- C. Public Comment on Items Not on the Agenda
The Committee may not discuss or act on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).
- D. Review and Possible Action on August 1, 2019 Committee Meeting Minutes
- E. Enforcement Program Update
- F. Discuss and Possible Action on 2019-2021 Strategic Plan Objectives:
 - 1. Responsible Control Within Design-Build and Development Firms
 - 2. Management Control Within the Design-Build Model
 - 3. Restricting Advertisement of Architectural Services by Unlicensed Entities:
 Proposed Adoption of California Code of Regulations (CCR), Title 16, Division 2, Article 5, Section 135 to Require Architect License Number in Advertising
- G. Discuss and Possible Action on Proposed Amendments to Regulations
 - 1. CCR, Title 16, Division 2, Article 8, Section 152, Citations
 - 2. CCR, Title 16, Division 2, Article 9, Section 160, Rules of Professional Conduct
- H. Update on the California Secretary of State Requirements for Naming Professional and General Stock Corporations
- I. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public.

The Committee plans to webcast the meeting on the Board's website at www.cab.ca.gov. Webcast availability cannot be guaranteed due to limitations on resources or technical difficulties.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to it taking any action on said item. Members of the public will be provided appropriate

opportunities to comment on any issue before the Committee, but the Committee Chair may, at their discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

This meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting:

Person: Katie Wiley

Telephone: (916) 575-7208

Email: katie.wiley@dca.ca.gov

Telecommunications Relay Service: Dial 711

Mailing Address:

California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code section 5510.15).

AGENDA ITEM A: CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

Roll will be called by the Regulatory and Enforcement Committee Vice Chair, or in her absence, by a member designated by the Chair.

REGULATORY AND ENFORCEMENT COMMITTEE ROSTER

Robert C. Pearman, Chair

Sylvia Kwan, Vice Chair

Fred Cullum

Cheryl DeMarco

Robert Ho

Ronald A. Jones

Sheran Voigt

AGENDA ITEM B: CHAIR'S PROCEDURAL REMARKS AND COMMITTEE MEMBER INTRODUCTORY COMMENTS

The Regulatory and Enforcement Committee (Committee) Chair will review the scheduled Committee's actions and make appropriate announcements. Committee members will then make their introductory comments, if any.

AGENDA ITEM C: PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

The Committee may not discuss or act on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).

AGENDA ITEM D: REVIEW AND POSSIBLE ACTION ON AUGUST 1, 2019 COMMITTEE MEETING MINUTES

Summary

The Committee is asked to review and take possible action on the minutes of the August 1, 2019 Regulatory and Enforcement Committee meeting.

Action Requested

Approval of the August 1, 2019 Regulatory and Enforcement Committee meeting minutes.

Attachment(s)

August 1, 2019 Regulatory and Enforcement Committee Meeting Minutes (Draft)



**DRAFT MEETING MINUTES
CALIFORNIA ARCHITECTS BOARD
REGULATORY AND ENFORCEMENT COMMITTEE**

AUGUST 1, 2019
SACRAMENTO
2420 Del Paso Road, Sequoia Room, Suite 109
Sacramento, CA 95834

Committee Members Present

Robert C. Pearman, Jr., Chair
Fred Cullum
Cheryl DeMarco
Gary McGavin

Committee Members Absent

Sylvia Kwan, Vice Chair
Robert Ho
Sheran Voigt

Board Staff Present

Laura Zuniga, Executive Officer
Alicia Hegje, Program Manager, Administration/Enforcement Units
Idris Ahmed, Enforcement Analyst
Reynaldo Castro, Enforcement Technician
Robert Chase, Architect Consultant
Hattie Johnson, Enforcement Analyst
Arleen McKenzie, Administration Cashier
Jasmine Newman, Enforcement Analyst
Sonja Ruffin, Enforcement Analyst
Michael Sganga, Enforcement Analyst
Stacy Townsend, Enforcement Analyst, Landscape Architects Technical Committee (LATC)
Robert Chase, Enforcement Architect Consultant

Guests

Nicki Dennis Stephens, Executive Vice President, The American Institute of Architects, California (AIA California)
Mark Christian, Director of Government Relations, The American Institute of Architects, California Council (AIACC)

A. Call to Order / Roll Call / Establishment of a Quorum

Regulatory and Enforcement Committee (REC) Chair Robert C. Pearman, Jr., called the meeting to order at 10:00 a.m.

Alicia Hegje called the roll. There being four members present at the time of roll, a quorum was established.

B. Chair's Procedural Remarks and Committee Member Introductory Comments

Mr. Pearman welcomed everyone and requested members provide self-introductions. Mr. Pearman noted that former Chair Barry L. Williams, Robert De Pietro, and Michael Merino are no longer with the REC and Cheryl DeMarco is a new committee member. Nicki Dennis Stephens of AIA California and Board staff introduced themselves.

C. Public Comment on Items Not on the Agenda

Mr. Pearman opened the floor for public comment regarding items not specified on the meeting agenda. No comments were received.

D. Review and Possible Action on August 23, 2018 REC Meeting Minutes

Mr. Pearman asked if there were any questions, comments, or changes to the August 23, 2018 REC Meeting Minutes. There were none.

Gary McGavin moved to approve the August 23, 2018 REC Meeting Minutes.

Robert C. Pearman, Jr. seconded the motion.

Members Cullum, McGavin and Chair Pearman voted in favor of the motion. Member DeMarco abstained. The motion passed 3-0-1.

E. Enforcement Program Update

Alicia Hegje provided the Enforcement Program update and highlighted the status items of interest to the REC, including: 1) the enforcement unit being fully staffed and that two retired annuitants who were formerly with the Board had been hired; 2) publication of the *New Licensee Information Guide*; 3) the debt service collection contract with Cedars Business Services, LLC; 4) outreach; 5) staff's diligent efforts to recruit subject matter experts; 6) status on regulatory proposals; and, 7) written contract language. Ms. Hegje further described the Enforcement Program data since the last REC meeting

Cheryl DeMarco inquired if architects submit their continuing education certificates yearly. Laura Zuniga explained that certificates are required if a licensee is randomly selected for an audit.

Mr. McGavin commented that the license numbers in the summary of the Final Citations FY 2018/19 attachment seemed to focus on license numbers between 20,000 to 29,999. He was concerned there may be a disconnect with a certain group of licensees. Ms. Zuniga added that was interesting and staff will research further.

Mr. Sganga summarized the final citations since August 2018 which included the following number of violations: 14 continuing education; 8 practice without a license or holding self out as architect; 4 advertising; 4 written contract; 1 negligence; and a few others. There was only one disciplinary case in the last year which dealt with a criminal conviction.

Mr. McGavin commented about the renewal process and self-certifying CE procedure and the likelihood of architects perjuring themselves as the hours may not have been completed within the last renewal period. He added that some architects have admitted that they almost never complete their CE, citing that some of the providers delayed providing the certificate. Ms. Zuniga stated that the Board will in the near future accept electronic submission of these certifications, and licensees will retain their ability to submit their certificate.

Ms. Hegje updated the Committee about two objectives from the 2017-18 Strategic Plan. Firstly, in May, the Board released the *New Licensee Information Guide (Guide)* and the *Guide* is available on the Board's website under *Publications*, and is provided by mail to each newly licensed architect along with their wall and pocket certification. Secondly, the Board and LATC entered into a three-year contract with Cedars Business Services, LLC for collection of outstanding citations.

Ms. Hegje further provided the Committee with an overview of the Board's outreach activities to date. She highlighted the Board's continued presence at AIA California's Large Firm Roundtable; attendance at the California Building Officials' (CALBO) association annual meeting that resulted in requests for supplies of *Consumer's Guide to Hiring an Architect* and the *Consumer Tips for Design Projects* distributed to CALBO offices throughout the state. Ms. Hegje also stated Board staff continues to provide licensure presentations in collaboration with NCARB. CSLB continues to disseminate board publications at disaster assistance centers after a natural disaster has been declared.

Mr. McGavin questioned how individuals request the Board's consultants to speak at events. Ms. Hegje explained that the Board currently employs one architect consultant, Bob Chase, and that requests for his attendance be made to Ms. Zuniga, Executive Officer, directly and she could coordinate presentations.

Fred Cullum commented that Paradise is being administered, inspected, and plan checked by third party, 4LEAF, Inc. and wanted to know if the Board had reached out to 4LEAF, Inc. Ms. Zuniga responded that it has not been done or acknowledged but would follow-up. Mr. Cullum recommended that the Board contact them.

Ms. Hegje summarized the recruitment efforts for SMEs. She stated that previously the Board was able to contract with individual architect contracts. With the expiration of an existing contract in June, the Board began recruitment. She explained that SMEs will provide case review, technical evaluations, and courtroom testimony throughout the state. Ms. Hegje stated that an email blast was sent to approximately 28,000 individuals as well as published on the Board's website and via social media.

Mr. McGavin questioned how many SMEs would be hired and asked for clarification as to the general subject areas they would be employed doing. Ms. Hegje explained that this is a new process for the Board; and that Mr. Sganga and she had been working with the Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) for guidance as they also employ SMEs.

Ms. DeMarco asked if there are any downsides to employing a SME rather than an architect consultant. Ms. Hegje replied that she had not heard of any negatives.

F. Discuss and Possible Action on 2017/2018 Strategic Plan Objective to Update the Building Official Information Guide to Better Educate Local Building Officials on the Architects Practice Act

Ms. Hegje presented this agenda item and reminded the REC that the 2017-2018 Strategic Plan contained an objective to update the Board's *Building Official Information Guide (Guide)* to better educate local building officials on the *Act*. Ms. Hegje stated the *Guide* was reviewed by the Committee at the last meeting, and it was recommended to include a summary about mechanic's liens and how to obtain additional information about the process. Ms. Hege asked committee members to review the proposed revisions contained in the meeting packet and provide feedback to staff.

Ms. DeMarco commented that there is not a clear definition of who can design a three-story structure. She said unlicensed individuals are submitting plans to the California Coastal Commission and planning departments for approval without being licensed and stamping their plans which is required for this type of structure. Mr. Cullum commented there is no design requirement for three stories and information is contained in the residential building code. Mr. Pearman added that building officials are required to verify whether the individual who prepares and submits permit documents for non-exempt projects has a current license and is clearly stated in the *Guide*.

Mr. Chase explained that the Act requires not more than two stories and a basement in height for an unlicensed individual (BPC section 5537(a)(1)). He stated it is the building official's responsibility to verify if the designer is licensed if a project is over three stories.

Mr. Pearman stated there is an exempt building section in the *Guide*. Mr. Chase stated as a former building official, that they are aware of the exemptions. He stated that at some point, the Board might require statutory change regarding BPC section 5537(a)(1) because it is now acceptable by the building departments to submit metal studs in lieu of wood studs. Mr. Chase said that "wood frame" construction is not quite accurate, and a better term is "conventional" construction.

Ms. Hegje stated that similar language is included in the *Guide* about unlicensed individuals and what they can design. Ms. DeMarco commented that the information on this page regarding the term "nonstructural or nonseismic" additions can include almost any change and would require a structural engineer. Mr. Chase added that the intent of this language goes back several years and pertains to tenant improvements, which are pretty common, and do not require a licensed person to complete that work unless it includes items such as a shear wall, structure, or exterior wall and then an architect would be required. Mr. McGavin explained a lot of nonstructural items are buried in the code and AIA California has a sub-working group reviewing tenant improvements to find ways to clarify nonstructural elements that can cause harm. Mr. Chase confirmed that clarification is warranted.

The Committee tabled the item until the end of the meeting.

G. Discuss and Possible Action on the 2019-2021 Strategic Plan Objectives to:

Educate Architects Regarding Their Responsibilities under Business and Professions Code Section 5535.1 (Responsible Control) and California Code of Regulations (CCR) Section 151 (Aiding and Abetting) to Protect Consumers From Unlicensed Practice

Michael Sganga presented this agenda item and explained to the REC that recently, the majority of the Board's responsible control-related cases were coming from the new business model of Design-Build firms. Typically, in these situations, a licensed contractor starts a business offering full-service design and contracts out the non-exempt architectural services. Mr. Sganga explained that this in itself is not prohibited by the *Act*, but that problems arise when the contractor figures out they can make a lot more money by advertising their association with architects, and maybe even name their company XYZ Building and Architecture. California Code of Regulations section 134 (Use of the Term Architect; Responsible Control within Business Entity) prohibits the use of the word architect in a business name or description of services unless there is a licensed architect on staff in management control of all design projects.

He explained the problem then becomes one of aiding and abetting for the architect who considers this a valid collaboration, because they do not have control over the company's exempt projects, yet the company is using their name to justify the advertising. Mr. Sganga noted that for the consumer, this is an even bigger problem, because they might not even know who their architect is, and explained the consumer has no recourse for professional misconduct, and the Board has no way to determine whether an architect is in responsible control over a given project.

Board staff asked the Committee to discuss these issues in the context of establishing regulatory standards and educating architects regarding their professional responsibilities

Mr. Pearman asked about what "responsible control" means, acknowledging that it might vary on a case-by-case basis. He questioned if responsible control includes an unlicensed person working for an architect and drafting all the plans, attending weekly meeting with the licensed architect, and putting it all together for sign off. Messrs. Sganga and Chase explained that it does require a case-by-case examination. Mr. Chase explained that the architect who is signing has to know that the plans were done as well as if they had done them themselves or they have to understand everything that is in the plans in order to accept the responsible control.

Mr. McGavin described the Design-Build firm as unique wherein the contractor might have control over what the architect designs.

Ms. DeMarco asked whether an architect has to be on staff with the contractor to exercise management control. Mr. Sganga answered that the architect must be a co-owner, officer or employee.

Mr. Pearman questioned how to prove that an architect did not have responsible control. Mr. Chase explained that it is very difficult and used one of the cases Mr. Sganga had referred to as an example. He stated the problem is that with a small project, responsible control might just mean a thorough review of the plans, and that could happen in less than one day.

Mr. Chase returned to the point that BPC section 5536.22 does not require that the "client" be the owner. He stated it could be a contractor or a Design-Build firm and may provide a separation between the architect and the owner.

Mr. Pearman inquired how the proposed Informational Bulletin (bulletin) would be distributed. Mr. Sganga offered that it would be posted on the Board website and emailed via the Board's e-subscribe list with a link to the document. Ms. DeMarco suggested that the link could be sent to architects throughout the state, as well as to building departments. Mr. Cullum suggested that it could also be sent to representatives of the Design-Build industry, such as the Design-Build Institute of America.

Mr. Pearman called the question of whether the informational bulletin should go out and be distributed as discussed.

Gary McGavin made a motion to accept the proposed Informational Bulletin and present the document to the Board at its next meeting.

Cheryl DeMarco seconded the motion.

Members Cullum, DeMarco, McGavin and Chair Pearman, voted in favor of the motion. The motion passed 4-0.

2. Research and Evaluate Categories of Criminal Convictions as They Relate to the Practice of Architecture and Amend Disciplinary Guidelines and Rehabilitation Criteria to Comply With the Requirements of Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018)

Jasmine Newman provided an update on the status of amending the Board's *Disciplinary Guidelines (Guidelines)* to comply with AB 2138 (Chiu, Chapter 995, Statutes of 2018), which is a 2019-2021 Strategic Plan objective. Ms. Newman noted that this update was purely for informational purposes, and no action was needed by the REC. Ms. Newman reminded the REC that during the February 27, 2019 Board meeting, Board members reviewed and approved the new language, and she reported that staff are currently working on justifications for the changes. These changes would then be sent to the Office of Administrative Law for approval, which is a process that should take about two years.

Ms. Hegje noted that the sections include a minimum penalty and a maximum penalty. Mr. McGavin stated that in his opinion the minimum penalty should involve some type of revocation whenever fraud is involved.

Mr. McGavin asked who defines an ethics course. Ms. Hegje explained that it is determined by the judge on a case-by-case basis depending on the situation.

Mr. McGavin asked for clarification on what "subversion of the licensing exam" meant. Ms. Zuniga stated that she considered subversion to be taking materials out of the exam or copying the information.

3. Collaborate With Websites to Restrict Advertisements From Unlicensed Entities

Idris Ahmed provided an overview of the agenda item regarding unlicensed advertising on websites. He explained that BPC section 5536(a) (Practice Without License or Holding Self Out as Architect; Misdemeanor) states that unlicensed persons may not advertise themselves as architects.

Mr. Ahmed presented a graph of the most common websites that unlicensed persons advertise on as an architect, based on a sample of advertisement complaints the Board received. Mr. Ahmed explained that Board staff have contacted Yelp and Houzz to request they modify their websites to make it less likely unlicensed persons inadvertently advertise themselves as architects. These companies provided generic responses stating they would consider implementing the request.

Mr. Ahmed presented three recommendations and noted that the first recommendation needed to be modified as it currently suggests sending a cease and desist letter, but DCA legal informed Board staff that the Board does not have the legal authority to use threatening language so at best it would be an advisory letter.

Mr. Ahmed presented the second recommendation to require an architect to post his or her license number on advertisements which would require a new Board regulation; and third recommendation to continue working with websites to restrict unlicensed advertising. Mr. Pearman asked that since DCA legal informed Board staff of what the Board cannot do, if that meant in general or in specific cases. Mr. Ahmed stated that the Board can advise the websites that an unlicensed person is not an architect, and that information on their website is incorrect and ask them to remove it. Ms. Zuniga stated that the Board does not have the authority over websites and the Board cannot enforce compliance, which other boards in DCA have also struggled with.

Mr. Pearman asked if the second recommendation required license numbers for all advertisements. Mr. Ahmed responded that it was meant for all forms of advertisements. He explained that the intent was the licensed architects could distinguish themselves easily, enabling Board staff to recognize and differentiate between licensees and unlicensed individuals. Mr. Pearman asked if contractors have to post their license number on advertisements and business cards. Ms. Zuniga confirmed that all contractors' advertisements must include their license numbers. Ms. Hegje stated that during the June Board meeting, LATC adopted a requirement to have landscape architects post their license number on all forms of advertisement. Mr. Pearman asked Ms. Stephens if other states require license numbers on advertisements. Ms. Stephens stated to her knowledge, a few other states do require license numbers in advertisements. She stated she was surprised that this was not a requirement of architects, but contractors only.

Ms. DeMarco stated that requiring architects to post their license number on advertisements is a great idea. She stated she includes her license number and sees it as beneficial for other architects. Ms. DeMarco stated that false advertising amongst unlicensed individuals is widespread. She observed that Angie's list or Homeadvisors was not depicted on the graph and added Facebook only allows for a designation of an architect. Ms. DeMarco stated that she met with Houzz at an international building show and spoke with developers about

the issue. The developer said it was a very complex issue, but Ms. DeMarco said it is not that complex. She stated Houzz does not want to separate the building designer/architect category and that drafters were also included in the categorization on Houzz. She stated that Homeadvisors want license numbers, but they do not verify if the license number accurate. Ms. DeMarco stated that all forms of advertisement including text messages and Facebook would need to have a license number or it would become an enforcement issue. Ms. Hegje clarified that the graph depicted complaint cases the Board received for false advertising.

Gary McGavin made a motion to support the three staff recommendations to the Board at its next meeting.

Fred Cullum seconded the motion.

Members Cullum, DeMarco, McGavin and Chair Pearman voted in favor of the motion. The motion passed 4-0.

H. Legislative Update:

Assembly Bill (AB) 1076 (Ting, 2019) Criminal Records: Automatic Relief

Jasmine Newman provided a legislative update for AB 1076 to the REC, noting that the bill is currently in the Senate Appropriations Committee. Ms. Newman noted that this update was for informational purposes and no action was needed by the REC.

Senate Bill (SB) 608 (Glazer, 2019) Architects and Landscape Architects

Jasmine Newman provided a legislative update for Senate Bill 608, noting that the bill extends the sunset date for the Board and LATC and beginning January 1, 2021, requires the Board to fingerprint candidates for licensure. Ms. Newman noted that this update was for informational purposes, and no action was needed by the REC. Ms. Newman stated that the Board supported the bill and had submitted a letter in support.

Ms. DeMarco questioned who was responsible for the increased costs to implement fingerprinting. Ms. Hegje explained that the increased costs for fingerprinting and background checks would be a cost to the candidate.

Mr. McGavin asked about BPC section 5552.5 (Implementation of Intern Development Program), which stated, “the Board may, by regulation, implement an intern development program” to provide a training experience. He inquired if the Board would continue to offer the work experience only path whereby candidates work full time for five years under the direct supervision of a licensed US architect. Ms. Zuniga clarified that the change was only technical and that the Intern Development Program (IDP) had changed its name. She confirmed that the Board would continue to allow the work experience only pathway.

Mr. Pearman asked if the bill was expected to pass. Ms. Zuniga answered in the affirmative.

The committee discussed the procedure for background checks and fingerprinting.

SB 721 (Hill, Chapter 445, Statutes of 2018) Building Standards: Decks and Balconies: Inspection

Michael Sganga presented this item and reminded the Committee that they had previously discussed the legislative response to the 2015 Berkeley Balcony Collapse. The Committee last year expressed concerns about the involvement of architects in the new inspection criteria, and their potential liability. SB 721 became effective September 17, 2018 and has been incorporated into Health and Safety Code section 17973 (Exterior Elevated Elements: Inspections) and part of Civil Code section 1954 (Hiring of Real Property).

He explained with regard to the effect on architects: they are listed as one of the four types of professionals who are authorized to perform the required inspections of Exterior Elevated Elements and provide a written evaluation to the property owner within 45 days. The law provides for a Building Safety Lien against the property owner if the recommended repairs are not done within 180 days, but it does not address any liability of the inspector.

Mr. McGavin asked whether any of the architectural insurance companies voiced an issue with the term “inspection,” which they do not generally allow as part of an architect’s description of services. Mr. Sganga pointed out that the word “inspection” is very clearly defined in the law. Mr. McGavin asked whether this had come up at any AIA California board meetings. A member of the public representing the AIA California said that she would follow up with the issue.

***F. Discuss and Possible Action on 2017/2018 Strategic Plan Objective to Update the Building Official Information Guide to Better Educate Local Building Officials on the Architects Practice Act**

The Committee continued to discuss exempt building and structures. Mr. McGavin commented that BPC section 5536.2 requires verification of licensure and states it should be done at the time of initial submittal of the plans and specifications. and the building department will require the architect to stamp and sign the plans before a permit will be issued. He stated the California Coastal Commission has different jurisdiction than the planning departments. Ms. Zuniga commented that additional outreach can be done to include the California Coastal Commission to reiterate this information.

Ms. DeMarco referred to page 12 in the *Guide* which includes information about building designers, as well as page 31 regarding interior designers to discuss the services and title they may use. Ms. DeMarco suggested adding more information on page 12 of the *Guide*. Ms. Hegje pointed out that additional information can be found on about unlicensed individuals on page 40.

Mr. Cullum commented that the Building Standards Commission should be contacted for potential changes to the California Residential Code (CRC) and California Building Code; specifically, regarding CRC R101.2 (Townhouse; Scope). Ms. Zuniga commented that staff could research this issue.

Fred Cullum made a motion to accept the proposed revisions to the Building Official Information Guide and bring the Guide to the Board at its next meeting.

Gary McGavin seconded the motion.

Members Cullum, DeMarco, McGavin and Chair Pearman voted in favor of the motion. The motion passed 4-0.

I. Adjournment

The meeting adjourned at 12:47 p.m.

**Agenda item "F" was continued for this meeting and taken out of order to accommodate presenters of items. The order of business conducted herein follows the transaction of business.*

AGENDA ITEM E: ENFORCEMENT PROGRAM UPDATE

Summary

Attached is the Enforcement Program Update, which is a synopsis of Board and Enforcement Program activities and projects of interest to the Regulatory and Enforcement Committee.

Also included in this item is an overview of Final Citations (August 2019-September 2020) and Final Administrative Actions (August 2019- July 2020) that became effective since the last REC meeting.

Attachment(s)

1. Enforcement Program Update (August 2019 through September 2020)
2. Citations (August 2019 through September 2020)
3. Final Administrative Actions (August 2019 through July 2020)

ENFORCEMENT PROGRAM UPDATE

August 2019 through September 2020

Collection Agency The Board contracts with Cedars Business Services LLC for debt collection services to collect outstanding administrative fines and cost recoveries. The contract was approved on April 9, 2019 and is effective through April 8, 2022. Cedars Business Services LLC has successfully collected \$17,481 to date.

Building Official Information Guide The Board updated the *Building Official Information Guide (Guide)* in 2019. The purpose of this Guide is to aid building officials and others in understanding and enforcing the laws and regulations governing the practice of architecture in California. The Guide is available online and last revised September 22, 2020 to include additional information regarding landscape architects.

California Code of Regulations (CCR) Section 154 (Disciplinary Guidelines) The Board's prior Strategic Plans included an objective to review and update the Board's *Disciplinary Guidelines*. The Board approved the proposed regulatory language to amend CCR section 154; however, as a result of guidance from the Department of Consumer Affairs (DCA), staff made additional changes to the *Guidelines* due to the passage of Assembly Bill (AB) 2138 as well as proposed changes to CCR sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation). On June 17, 2020, the regulatory package was approved by DCA's Budget Office and is currently under review in the Legal Affairs Division.

Enforcement Subject Matter Expert (SME) Program Since November 2019, the Board has been using a pool of qualified SMEs to provide case review, technical evaluation, and courtroom testimony. This new process has enabled a more efficient use of the Board's resources. The Board has a pool of 15 SMEs some of which have completed 14 expert opinion reports. Staff continue to assign cases on an ongoing basis, as needed.

Legislation Senate Bill (SB) 608 (Chapter 376, Statutes of 2019) becomes effective January 1, 2021, and requires all new applicants for licensure to submit fingerprints to the Department of Justice for the purpose of conducting a criminal background check. The Board has been publicizing the change and how it will impact new applicants. The Board provided a notice of the new requirements in its newsletters and on the website. The website includes guidance regarding the requirement and answers to frequently asked questions and will include a page for out-of-state candidates to request blank fingerprint cards where Live Scan is unavailable.

Additionally, SB 608 authorizes continuing education providers to submit evidence of coursework directly to the Board and mandates the Board to promulgate regulations to establish qualifications for disability access coursework and providers.

Finally, SB 608 enhances the existing written contract requirements contained in Business and Professions Code (BPC) section 5536.22 to include: a description of the project for which the client is seeking services; the project address; a description of the procedure to be used to accommodate changes in the description of the project, in the description of the services, or in the description of the compensation and method of

payment; a statement identifying the ownership and use of instruments of service prepared by the architect; and a statement that architects are licensed and regulated by the California Architects Board located at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834. The written contract changes were provided to licensees in the Board's newsletter (2020 Edition, Issue 1).

Outreach On October 22, 2020, the Board's SME Barry N. Williams and Licensing Program Manager Marccus Reinhardt made a presentation at the AIA East Bay Membership Meeting.

<u>Enforcement Statistics</u>	<u>FY 20/21</u> <i>(as of 9/30/20)</i>	<u>FY19/20</u>	<u>FY18/19</u>
Complaints			
Received/Opened (Reopened):	59 (1)	428 (2)	310 (2)
Closed:	52	428	314
Average Days to Close:	139 days	132 days	188 days
Pending:	161	153*	150*
Average Age of Pending:	139 days*	230 days*	230 days*
Citations			
Issued:	8	96	48
Pending:	10	20	32*
Pending AG†:	3	3	3*
Final:	20	84	55
Disciplinary Actions			
Pending AG:	7	6*	6*
Pending DA:	0	0	1*
Final:	1	2	1
Continuing Education (§5600.05)**			
Received/Opened:	0	37	35
Closed:	3	30	24
Pending:	4	7	11*
Settlement Reports (§5588)**			
Received/Opened:	6	34	24
Closed:	7	25	15
Pending:	20	9	9*

*Calculated as a monthly average of pending cases.

**Also included within "Complaints" information.

Complaints Received

Type of Complaint Received	FY 2020/21 (as of 9/30/20)	FY 2019/20
Advertising	25.0%	33.4%
Continuing Education	0.0%	6.5%
Licensee	21.7%	29.6%
Settlement	10.0%	8.4%
Unlicensed	43.3%	22.1%

Complaints Closed

Type of Closure	FY 2020/21 (as of 9/30/20)	FY 2019/20	FY 2018/19
Cease/Desist Compliance	6	21	10
Citation Issued	8	94	43
Complaint Withdrawn	1	8	10
Insufficient Evidence	2	14	16
Letter of Advisement	17	123	120
No Jurisdiction	3	27	13
No Violation	10	95	74
Referred for Disciplinary Action	1	3	4
Other (i.e., Duplicate, Mediated, etc.)	4	99	30

Most Common Violations The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

In FY 2019/20, 84 citations with administrative fines became final with 71 violations of the Architects Practice Act (Act) and/or Board regulations. In FY 2020/21 (as of September 30, 2020), 15 citations with administrative fines became final with 25 violations of the Act and/or Board regulations.

The most common violations that resulted in citation or discipline during the current and previous fiscal year are listed below.

BPC or CCR Section	FY 2020/21 (as of 9/30/20)	FY 2019/20
BPC § 5536(a) & (b) &/or CCR § 134 – Advertising and Unlicensed Practice	50.0%	45.5%
BPC § 5536.1(c) – Unauthorized Use of Stamp/License number	8.3%	1.8%
BPC § 5536.22(a) – Written Contract	8.3%	5.5%
BPC § 5584 – Negligence or Willful Misconduct	16.7%	5.5%
BPC § 5600.05(a)(1) &/or (b) – Failure to Complete CE &/or Misleading Information on License Renewal	12.5%	54.5%
CCR § 160(b)(2) – Failure to Respond to Board Investigation	4.2%	7.3%

Final Citations – August 2019

Mike De Alba, Jr. (Sanger) The Board issued a two-count citation that included a \$2,000 administrative fine to Mike De Alba, Jr., architect license number C-33144, for alleged violations of Business and Professions Code (BPC) section 5584 (Willful Misconduct), as defined in California Code of Regulations (CCR), title 16, sections 150 (Willful Misconduct) and 160(b)(2) (Willful Misconduct; Failure to Respond to Board Investigation). The action alleged that on or about September 16, 2014, De Alba, Jr. agreed to prepare drawings and/or calculations for a project located in Turlock, California. The contract provided that “Construction Documents will be completed in 60 days of Owner signing contract and initial payment.” The contract also stated, “Owner will sign and date of approval of schematic design and design development drawings prior to commencement of construction documents.” The initial payment for the contract was sent to De Alba, Jr. the day after the execution of the contract, September 17, 2014, so the plans should have been completed by November 17, 2014. De Alba, Jr. did not submit the plans to the city of Turlock until in or around April 2015, nor did he provide any designs to the client for approval prior to proceeding to the construction documents stage. The client was not made aware of any delays until he received a copy of an email the city of Turlock sent in their response to De Alba, Jr.’s fifth attempt at submitting the plans, in or around February 2016. De Alba, Jr. thus violated a provision of the agreement with the client and made no reasonable effort to inform the client of the conduct or omission. De Alba, Jr. also failed to respond to the Board’s requests for information regarding an investigation within 30 days. The citation became final on August 6, 2019.

Mohammad R. Hakimi (Oakland) The Board issued a one-count citation that included a \$500 administrative fine to Mohammad R. Hakimi, architect license number C-25024, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Hakimi certified false or misleading information on his 2019 License Renewal Application. Hakimi paid the fine, satisfying the citation. The citation became final on August 2, 2019.

Tuan Nguyen (Westminster) The Board issued a two-count citation that included a \$2,000 administrative fine to Tuan Nguyen, dba Do Green Company Design & Consultant Service and ICM Management Co., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect). The first cause for citation alleged that Nguyen provided a proposal to add a 400 sq. ft. family room and open patio to a single- family residence located in Anaheim, California. The services offered in the proposal included “Architectural & Engineering (A/E) Consultant Service.” The written proposal using the word “Architectural” is a device that might indicate to the public that Nguyen is an architect, that he is qualified to engage in the practice of architecture, or that he is an architectural designer. The second cause for citation alleged that Nguyen prepared drawings for the project that contained a title block that included his business name “ICM Management Co., Architecture & Consultant.” Nguyen used a business name which included the term “architecture” in its title and description

of services, without a California licensed architect who was in management control of the professional services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on August 5, 2019.

Hildegard Anna Richardson (Mill Valley) The Board issued a one-count citation that included a \$2,000 administrative fine to Hildegard Anna Richardson, architect license number C-11183 for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that Richardson failed to execute a written contract with her client for a new phase of work on a residential project located in Sonoma, California prior to commencing the professional services. Richardson paid the fine, satisfying the citation. The citation became final on August 28, 2019.

David W. Stark (Rocklin) The Board issued a one-count citation that included a \$500 administrative fine to David W. Stark, architect license number C-24144 for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Stark certified false or misleading information on his 2019 License Renewal Application. Stark paid the fine, satisfying the citation. The citation became final on August 29, 2019.

September 2019

Jijun Han (Buena Park) The Board issued a one-count citation that included a \$750 administrative fine to Jijun Han, an unlicensed individual, for an alleged violation of BPC section 5536(b) (Use of Stamp by an Unlicensed Person). The action alleged that while Han was unlicensed, he affixed a stamp to drawings which read: "KTIK design," "INTERIOR + ARCHITECTURAL + DESIGN," "COMMERCIAL / RESIDENTIAL PLANNING / CONSTRUCTION," and "#985437." The stamp was circular in shape and of a similar design used by licensed architects, pursuant to CCR, title 16, section 136. The license number listed was Han's contractor's license number, not an architect's license number. The word "ARCHITECTURAL" was prominent and centered below the license number. Han paid the fine, satisfying the citation. The citation became final on September 9, 2019.

Rui Han (Santa Clara) The Board issued a one-count citation that included a \$500 administrative fine to Rui Han, architect license number C-32779 for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Han failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Han paid the fine, satisfying the citation. The citation became final on September 23, 2019.

David H. Lyon (Carlsbad) The Board issued a one-count citation that included a \$500 administrative fine to David H. Lyon, architect license number C-11865, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Lyon certified false or misleading information regarding the completion of required coursework on his 2019 License Renewal Application. Lyon paid the fine, satisfying the citation. The citation became final on September 30, 2019.

Warren Earle Pechin (Bakersfield) The Board issued a one-count citation that included a \$500 administrative fine to Warren Earle Pechin, architect license number C-8366, for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that on or about October 10, 2016, Pechin failed to execute a written contract with his client prior to commencing professional services for a residential addition located in Bakersfield, California. Pechin paid the fine, satisfying the citation. The citation became final on September 23, 2019.

October 2019

Robert Trent Fechtmeister (Gretna, NE) The Board issued a one-count citation that included a \$750 administrative fine to Robert Trent Fechtmeister, architect license number C-31451, for alleged violations of BPC sections 141(a) (Effect of Disciplinary Action Taken by Another State or the Federal Government) and 5586 (Public Agency; Disciplinary Action). The action, according to disciplinary action taken by the Nebraska Board of Engineers and Architects, alleged that on or about November 16, 2011, Fechtmeister forged the name of an engineer on a Certificate of Authorization Renewal Application and forged the engineer's signature and professional engineering seal on multiple mechanical, electrical, and plumbing plans. The citation became final on October 17, 2019.

Lynn L. Fisher (Palo Alto) The Board issued a one-count citation that included a \$250 administrative fine to Lynn L. Fisher, architect license number C-29880, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Fisher certified false or misleading information regarding the completion of required coursework on her 2019 License Renewal Application. Fisher paid the fine, satisfying the citation. The citation became final on October 9, 2019.

Steven M. Lawler (Walnut Creek) The Board issued a three-count citation that included a \$2,500 administrative fine to Steven M. Lawler, architect license number C-29399, for alleged violations of BPC sections 5586 (Discipline by Public Agency), 5579 (Fraud in Obtaining License), and 5584 (Willful Misconduct) as defined in CCR, title 16, section 160(b)(2) (Failure to Respond to Board Investigation). The action alleged that Lawler was disciplined by the Florida State Board of Architecture and Interior Design on May 30, 2017, and again on February 19, 2019, for failure to complete continuing education requirements. The action further alleged that Lawler failed to respond to the

California Board's requests for information regarding its investigation. The action also alleged that Lawler represented on his October 10, 2018 California license renewal application that he had not been disciplined by a public agency during the preceding two-year renewal period. The citation became final on October 28, 2019.

Kurt Von Puttkammer (West Point) The Board issued a one-count citation that included a \$500 administrative fine to Kurt Von Puttkammer, architect license number C-21166, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Von Puttkammer certified false or misleading information regarding the completion of required coursework on his 2019 License Renewal Application. Von Puttkammer paid the fine, satisfying the citation. The citation became final on October 28, 2019.

Luis Antonio Robles (Pacifica) The Board issued a four-count citation that included an \$8,003 administrative fine to Luis Antonio Robles, architect license number C-21700, for alleged violations of CCR, title 16, section 160(b)(2) (Willful Misconduct; Failure to Respond to the Board's Investigation) and BPC section 5558 (Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements). The first three causes alleged that Robles failed to respond to the Board's requests for information within 30 days regarding three separate investigations. The fourth cause alleged that Robles failed to file with the Board the proper and current name and address of the entity through which he provides architectural services. Robles paid the fine, satisfying the citation. The citation became final on October 21, 2019.

Randall W. Russom (Arroyo Grande) The Board issued a one-count modified citation that included a \$1,000 administrative fine to Randall W. Russom, architect license number C-24410, for an alleged violation of CCR, title 16, section 160(b)(2) (Failure to Respond to Board Investigation). The action alleged that Russom failed to respond to the Board's requests for information regarding his continuing education coursework within 30 days. The citation became final on October 10, 2019.

Jeffrey Lee Sobin (Los Angeles) The Board issued a one-count citation that included a \$250 administrative fine to Jeffrey Lee Sobin, architect license number C-18249, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Sobin certified false or misleading information regarding the completion of required coursework on his 2019 License Renewal Application. Sobin paid the fine, satisfying the citation. The citation became final on October 25, 2019.

November 2019

Douglas Duane Andresen (Fontana) The Board issued a one-count citation that included a \$2,500 administrative fine to Douglas Duane Andresen, architect license number C-14504, for alleged violations of BPC section 5584 (Willful Misconduct) and CCR, title 16, section 160(a)(2) (Rules of Professional Conduct). The action alleged that Andresen failed to verify the property line prior to commencing the design of an addition to the client's residence, which resulted in construction into the setback of a neighboring property. The citation became final on November 7, 2019. Andresen paid the fine, satisfying the citation.

Glush Dada (Cupertino) The Board issued a one-count citation that included a \$1,000 administrative fine to Glush Dada, an unlicensed individual, for an alleged violation of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that while Dada was unlicensed, she maintained Houzz, Facebook, Pinterest, BuildZoom, and Yelp profiles, wherein she used the business name "Glush Design Architects," described herself as providing "Architectural Design," "Architectural Drawings," and "Architectural Services," and categorized herself under "Architects" and "Architects and Building Designers." Dada's business website contained testimonials referring to her as an "architect" and mentioned her "architectural skills." Dada paid the fine, satisfying the citation. The citation became final on November 25, 2019.

John P. Grounds (Washington, DC) The Board issued a one-count citation that included a \$500 administrative fine to John P. Grounds, architect license number C-25848, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Grounds certified false or misleading information on his 2019 License Renewal Application. The citation became final on November 8, 2019.

Siddhartha Majumdar (Los Angeles) The Board issued a one-count citation that included a \$500 administrative fine to Siddhartha Majumdar, architect license number C-36763, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Majumdar certified false or misleading information on his 2019 License Renewal Application. Majumdar paid the fine, satisfying the citation. The citation became final on November 17, 2019.

Francis Ong (Irvine) The Board issued a one-count citation that included a \$500 administrative fine to Francis Ong, architect license number C-18585, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Ong certified false or misleading information on his 2019 License Renewal Application. Ong paid the fine, satisfying the citation. The citation became final on November 15, 2019.

December 2019

Narendra C. Patel (Rancho Mirage) The Board issued a one-count citation that included a \$1,000 administrative fine to Narendra C. Patel, architect license number C-22563, for alleged violations of BPC section 5536.22(a) (Written Contract). The action alleged that Patel failed to execute a written contract with his clients prior to commencing professional services for a residential interior non-structural remodeling project. Patel paid the fine, satisfying the citation. The citation became final on December 10, 2019.

January 2020

Eliad Dorfman (Los Angeles) The Board issued a three-count citation that included a \$4,500 administrative fine to Eliad Dorfman, dba Eliad Dorfman Design, an unlicensed individual, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5536.1(c) (Preparation of Plans for Non-Exempt Buildings). The action alleged that Dorfman offered his design and construction administration services and prepared drawings for a six-unit apartment building, a three-story, eight-unit apartment building, and a four-story residence, which are not buildings exempt from the requirements of the Architects Practice Act pursuant to BPC sections 5537(a) and 5538, constituting the practice of architecture as defined in BPC section 5500.1. The citation became final on January 18, 2020.

Patricia N. Esposito (Loomis) The Board issued a one-count citation that included a \$500 administrative fine to Patricia N. Esposito, architect license number C-25246, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Esposito certified false or misleading information on her 2019 License Renewal Application. Esposito paid the fine, satisfying the citation. The citation became final on January 23, 2020.

Ralph Harmer Goodell, III (Cathedral City) The Board issued a three-count citation that included a \$2,250 administrative fine to Ralph Harmer Goodell III, architect license number C-10132, for alleged violations of BPC section 5558 (Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements), BPC section 5536.22(a)(5) (Written Contract), and CCR, title 16, section 160(b)(2) (Rules of Professional Conduct; Willful Misconduct). The action alleged that Goodell failed to file a Business Entity Report Form, used contracts that did not include a description of the procedure to be used by either party to terminate the contract, and failed to respond to the Board's requests for information regarding an investigation within 30 days. Goodell paid the fine, satisfying the citation. The citation became final on January 20, 2020.

Mojtaba Janatpour (Walnut Creek) The Board issued a one-count citation that included a \$2,500 administrative fine to Mojtaba Janatpour, dba Next Level Architecture, LLC, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect). The action alleged that Janatpour used the business name Next Level Architecture, LLC, and advertised on his website nextlevelarch.com, that he had a “team of skilled architects,” without a licensed architect in management control of the professional services offered, and either an owner, part-owner, an officer or an employee of the business entity. The citation became final on January 18, 2020.

John P. Jensen (Solana Beach) The Board issued a one-count citation that included a \$500 administrative fine to John P. Jensen, architect license number C-19680, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Jensen certified false or misleading information on his 2019 License Renewal Application. The citation became final on January 17, 2020.

February 2020

Kamran Farahi (Los Angeles) – The Board issued a one-count citation that included a \$1,500 administrative fine to Kamran Farahi, dba Farahi Construction, Inc., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Farahi reused sets of swimming pool plans and/or plan details he had previously purchased from an architect on seven swimming pool construction projects, for which those plans were never designed or otherwise intended to be used. Farahi’s use of plans that had been stamped and signed by an architect or the firm’s engineer for another project, without their consent, violated BPC section 5536(a). The citation became final on February 13, 2020.

John R. Garakian (Laguna Beach) The Board issued a one-count citation that included a \$500 administrative fine to John R. Garakian, architect license number C-9826, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Garakian certified false or misleading information on his 2019 License Renewal Application. Garakian paid the fine, satisfying the citation. The citation became final on February 24, 2020.

Roi Gavriely (Canoga Park) The Board issued a one-count citation that included a \$1,000 administrative fine to Roi Gavriely, dba Loyalty Construction, Inc., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Gavriely’s company print advertisement, company website, and Angie’s List profile described him as providing “architectural” services and offering “architects” without an architect who is in management control of the services that are offered and provided by the business entity

and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on February 13, 2020.

Michael J. Harlock (Corte Madera) The Board issued a one-count citation that included a \$500 administrative fine to Michael J. Harlock, architect license number C-12696, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Harlock certified false or misleading information on his 2019 License Renewal Application. Harlock paid the fine, satisfying the citation. The citation became final on February 20, 2020.

Jeffrey C. Kadlowec (Las Vegas, NV) The Board issued a one-count citation that included a \$500 administrative fine to Jeffrey C. Kadlowec, architect license number C-31642, for an alleged violation of BPC section 5579 (Fraud in Obtaining License). The action alleged that on or about June 12, 2019, a Settlement Agreement and Order by the Nevada State Board of Architecture, Interior Design and Residential Design (NSBAIDRD) became effective, based on a Notice of Charges filed on or about May 14, 2019 against Kadlowec, alleging that he failed to act with reasonable care and was negligent in the practice of architecture. NSBAIDRD sent Kadlowec a letter on or about June 13, 2019 stating, “be aware that this Board does consider this settlement agreement to constitute disciplinary action.” The action alleged that Kadlowec represented on his October 17, 2019 California license renewal application that he had not been disciplined by a public agency during the preceding two-year renewal period. The citation became final on February 27, 2020.

Robert J. Klob (Chandler, AZ) The Board issued a two-count citation that included a \$3,000 administrative fine to Robert J. Klob, dba Robert Klob Designs Inc., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Klob’s company website advertised that he provides design plans for Insulated Concrete Forms (ICF) homes in California. The action further alleged that on or about June 18, 2018, Klob sent a client a Proposal and Agreement for Residential Design Services to provide designs, drawings and documents for a new custom home in Lake Arrowhead, California using ICF, which is not described in BPC section 5537(a) as an exempt building. The citation became final on February 20, 2020.

Erik Kramer (Redwood City) The Board issued a one-count citation that included a \$1,000 administrative fine to Erik Kramer, dba Speck Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Kramer identified himself as an “Architect” on his company website. The citation became final on February 13, 2020.

Kunal Nagpal (Santa Rosa) The Board issued a four-count citation that included a \$10,000 administrative fine to Kunal Nagpal, dba Emerge Rebuild, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect; Responsible Control Within Business Entity). The action alleged that Nagpal represented himself as an architect and his company as an architectural firm when he entered into contracts to rebuild the homes of three victims of the October 2017 Tubbs Fire. The parties executed a Detail Design Agreement, which provided for "Preliminary Architectural Designs," "architectural renderings," and "architectural and structural design and specifications," documents which were to be "checked and verified by a licensed professional." Nagpal's company website advertised that their natural disaster recovery team, "which comprises of insurance specialists, architects, and general contractors," would assist fire victims by "first getting funds approved by insurance companies and then assisting with rebuilding the home for you by managing every step along the way," including Debris Cleanup, Insurance, Financing, Design/ Architect/ Engineering/ Permitting, and General Contracting. Nagpal paid the fine, satisfying the citation. The citation became final on February 27, 2020.

John Newton (Oakland) The Board issued a three-count citation that included a \$2,500 administrative fine to John Newton, dba John Newton Design & Development, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Newton submitted plans for three three-story residences to the City of Berkeley. These plans were not stamped by a licensed professional. The plans prepared by Newton indicated three distinct living levels in each of the houses, which are not exempt from the requirements of the Architects Practice Act pursuant to BPC sections 5537(a) and 5538. Newton paid the fine, satisfying the citation. The citation became final on February 20, 2020.

Gales L. Suarez (Pico Rivera) The Board issued a two-count citation that included a \$2,000 administrative fine to Gales L. Suarez dba Arch-Co Designers & Builders, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Suarez's LinkedIn profile listed him as a "Self Employed Freelance Architect," his Twitter profile stated that he was "a licensed architect and builder in the State of California," and his Porch.com profile described his business as "an architecture firm" and listed "architectural engineering" and "Architecture" as services offered. Suarez was also using the name "Gales L. Suarez DBA Arch-Co Designers & Builders" for his contractor's license. The citation became final on February 25, 2020.

Gregory P. Wesner (Castro Valley) The Board issued a one-count citation that included a \$500 administrative fine to Gregory P. Wesner, architect license number C-27967, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Wesner certified false or misleading information on his 2019

License Renewal Application. Wesner paid the fine, satisfying the citation. The citation became final on February 26, 2020.

March 2020

Michael Burke (Irvine) – The Board issued a two-count citation that included a \$3,500 administrative fine to Michael Burke, dba Bar International Design and Development Co., Inc. (Bar International), Bar Building Division, LLC, and The Development Bar, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that an auto and truck services company (client) hired Burke and his company, Bar International, in September 2014, to design and engineer a 1,400 square foot gas station convenience store in Bell Gardens, California. The contract between the client and Bar International dated September 29, 2014, was signed by Burke as “Architect for Bar International Design & Development Inc.,” and promised schematic design, architectural sheets, and “plans finalized for architectural stamp.” Change orders dated October 14, 2014; October 30, 2014; January 8, 2015; February 10, 2015; and April 3, 2015, included an “Architect’s Project Number,” specified “Not valid until signed by architect,” and were signed by Burke.

Burke’s invoices to the client dated October 2, 2014, October 8, 2014, October 14, 2014, October 30, 2014, and November 13, 2014, itemized conceptual design, schematic design, and design development of “plans finalized for architectural stamp.” The company’s contract with an outside engineering firm dated March 5, 2015, designated Michael Burke of Bar International as the architect of record. Preliminary design sheets for the Bell Gardens project displayed a title block listing Commercial Design and Architecture under Bar International’s description of services. A design agreement between the client and Bar Building Division, LLC dated March 24, 2016, promised “Complete architectural drawings” and “All documentation for planning commission submittal.” Burke used a contract he signed as Architect for Bar Building Division, LLC, Project Status Reports specifying “architectural/ planning commission submittal,” and an Estimated Timeline for “complete architectural” services.

As new commercial construction, the designs for a gas station convenience store, restaurant, and expansion are not exempt from licensing requirements under BPC section 5537. Burke represented his company as an architectural firm, provided architectural services, and included architecture in his company’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134.

In February 2020, Burke’s business, The Development Bar, maintained a website offering project management and design services and featured the design of the client’s gas station convenience store among its many commercial design accomplishments. By

advertising non-exempt commercial architectural services through his company's website, Burke violated BPC section 5536(a). The citation became final on March 11, 2020.

Rodolfo Garces (Palmdale) The Board issued a one-count citation that included a \$2,000 administrative fine to Rodolfo Garces, dba Affordable Blueprints Inc., ADS Architecture Group, and Affordable Drafting Services, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Garces' Buzzfile and LinkedIn profiles described him as providing "architecture" and "architectural" services. Further, his company's Manta, ProMatcher, and Yelp profiles used the terms "architects," "architecture," and "architectural" in ADS Architecture Group and Affordable Drafting Services' description of services, without an architect who is in management control of the services that are offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on March 1, 2020.

Mark G. Harold (Fresno) The Board issued a one-count citation that included a \$750 administrative fine to Mark G. Harold, architect license number C-10301, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Harold certified false or misleading information on his 2019 License Renewal Application and failed to complete the coursework on disability access requirements. The citation became final on March 20, 2020.

Thomas W. Jull (Oakland) The Board issued a one-count citation that included a \$750 administrative fine to Thomas W. Jull, architect license number C-25981, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Jull certified false or misleading information on his 2019 License Renewal Application and failed to complete the coursework on disability access requirements. The citation became final on March 19, 2020.

Ruth Michael (Chicago, IL) The Board issued a one-count citation that included a \$750 administrative fine to Ruth Michael, architect license number C-36234, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Michael certified false or misleading information on her 2019 License Renewal Application and failed to complete the coursework on disability access requirements. Michael paid the fine, satisfying the citation. The citation became final on March 19, 2020.

Scott A. Rivers (Long Beach) – The Board issued a one-count citation that included a \$500 administrative fine to Scott A. Rivers, architect license number C-23228, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Rivers certified false or misleading information on his 2019 License Renewal Application and completed the coursework on disability access requirements after his October 31, 2019 license renewal date. Rivers paid the fine, satisfying the citation. The citation became final on March 12, 2020.

Helmi El Senoussi (Las Vegas, NV) – The Board issued a two-count citation that included a \$3,500 administrative fine to Helmi El Senoussi, dba Bar International Design and Development Co., Inc. (Bar International), Bar Building Division, LLC, and The Development Bar, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that an auto and truck services company (client) hired El Senoussi and his company, Bar International, in September 2014, to design and engineer a 1,400 square foot gas station convenience store in Bell Gardens, California. The contract between the client and Bar International dated September 29, 2014, was signed by El Senoussi's unlicensed partner, Michael Burke, as "Architect for Bar International Design & Development Inc.," and promised schematic design, architectural sheets, and "plans finalized for architectural stamp." Change orders dated October 14, 2014, October 30, 2014, January 8, 2015, February 10, 2015, and April 3, 2015, included an "Architect's Project Number," specified "Not valid until signed by architect," and were signed by Michael Burke.

El Senoussi's invoices to the client dated October 2, 2014, October 8, 2014, October 14, 2014, October 30, 2014, and November 13, 2014, itemized conceptual design, schematic design, and design development of "plans finalized for architectural stamp." The company's contract with an outside engineering firm dated March 5, 2015, designated Michael Burke of Bar International as the architect of record. Preliminary design sheets for the Bell Gardens project displayed a title block listing Commercial Design and Architecture under Bar International's description of services. A design agreement between the client and Bar Building Division, LLC dated March 24, 2016, promised "Complete architectural drawings" and "All documentation for planning commission submittal." El Senoussi used a contract signed by Michael Burke as Architect for Bar Building Division, LLC, Project Status Reports specifying "architectural/planning commission submittal," and an Estimated Timeline for "complete architectural" services.

As new commercial construction, the designs for a gas station convenience store, restaurant, and expansion are not exempt from licensing requirements under BPC section 5537. El Senoussi represented his company as an architectural firm, provided architectural services, and included architecture in his company's description of services without an architect who was in management control of the services that were offered

and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134.

In or around February 2020, El Senoussi's business, The Development Bar, maintained a website offering project management and design services and featured the design of the client's gas station convenience store among its many commercial design accomplishments. By advertising non-exempt commercial architectural services through his company's website, El Senoussi violated BPC section 5536(a). The citation became final on March 11, 2020.

Jeffrey A. Shiozaki (Saratoga) The Board issued a one-count citation that included a \$500 administrative fine to Jeffrey A. Shiozaki, architect license number C-35153, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Shiozaki certified false or misleading information on his 2019 License Renewal Application and completed the coursework on disability access requirements after his November 30, 2019 license renewal date. Shiozaki paid the fine, satisfying the citation. The citation became final on March 13, 2020.

April 2020

Zaven Ayvazian (Van Nuys) – The Board issued a one-count citation that included a \$750 administrative fine to Zaven Ayvazian, dba ZAA Studio, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Ayvazian's company profile on LinkedIn was categorized under "Architecture & Planning," stated, "Recognized throughout the Los Angeles architect community for their communication and ongoing collaboration with clients and builders," and offered "Architecture" under *Specialties*. Further, Ayvazian's company signage was displayed in front of a residence located in Los Angeles, California offering "Residential & Commercial Architectural Design." Ayvazian used the term "architectural" and "architecture" in ZAA Studio's description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134. Ayvazian paid the fine, satisfying the citation. The citation became final on April 10, 2020.

Christopher Faulhammer (Venice) – The Board issued a one-count citation that included a \$1,500 administrative fine to Christopher Faulhammer, dba BSPK Design, Inc., E-Z Builders, Inc., and Think Design Office, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Faulhammer provided a "Design Services Proposal" to Mr. R.Y. (client) to remodel a one-story house located in Tujunga, California. The agreement provided for a complete interior remodel to an existing home. It offered

“architectural and engineering design services” and an architect to be provided by Faulhammer. Faulhammer’s personal LinkedIn profile identified him as a “Project Architect” and his company’s Archinect profile included “Architecture” under *Services Offered*. Faulhammer used the term “architecture” in BSPK Design, Inc’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR title 16, section 134. Faulhammer paid the fine, satisfying the citation. The citation became final on April 16, 2020.

Zaccharin Thibodeau (San Bernardino) – The Board issued a five-count citation that included a \$6,500 administrative fine to Zaccharin Thibodeau, dba Get It Done, An Architectural Design Company and Zachitect Designs, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged on or about September 27, 2018, Thibodeau’s company, “Get It Done, An Architectural Design Company,” included the word “architectural” in its name and had a website that offered architectural services. There was a picture of Thibodeau on the website that identified him as the co-owner. Thibodeau’s business name, “Get It Done, An Architectural Design Company” included the word architectural, and his website included the word architectural without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134.

On or about April 12, 2018, Thibodeau signed a contract entitled “Architect Contract” to provide “Architect’s” services to P.S. for a single-family residence located in Cerritos, California. This contract identified Thibodeau as an architect and offered architectural services 49 times. In an email to P.S. dated June 11, 2018, Thibodeau identified himself as an architect in his signature line. On or about March 5, 2018, Thibodeau signed a contract entitled “Architect Contract” to provide “Architect’s” services to C.B. for a property located in San Bernardino, California. On or about June 28, 2018, Thibodeau produced plans for the property including a title block that said, “Get It Done, An Architectural Design Company.” These contracts, email, and plans that identified Thibodeau as an architect, or qualified to engage in the practice of architecture, violated BPC section 5536(a).

On or about March 5, 2018, Thibodeau used the business name “Zachitect Designs.” This business name included a term confusingly similar to the word architect. Zachitect Designs had a website that described the firm as “Southern California’s Premiere Architect Firm.” These devices might indicate to the public that Thibodeau is an architect, is qualified to engage in the practice of architecture, or is an architectural designer, and violate BPC section 5536(a). The citation became final on April 11, 2020.

May 2020

Sebastian Rey Gonzalez (San Diego) - The Board issued a one-count citation that included a \$1,000 administrative fine to Sebastian Rey Gonzalez, dba S3DA Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Gonzalez described himself in advertising as an “Architect” and described the company, S3DA Design, as an “architectural design firm” that provides “architectural services” on the company website. Gonzalez’s company Facebook profile categorized him as an “Architectural Designer” and listed “Architectural Design” under *Services*. Gonzalez’s company Upwork profile described the company as providing “Architectural and Interior designing- Structural engineering” and stated, “Our professional engineers and architects have years of experience in servicing many great clients. We are an architectural design, structural engineering, and interior design company” and “Feel free to contact us if you like to know more about our architectural and structural services.” The Upwork profile also included the words “Architecture” and “Interior Architecture” to describe the company’s services. Gonzalez’s company Yelp profile was categorized under “Architects.” Gonzalez’s company ZoomInfo profile described him as an “Architectural Designer.” Gonzalez used the terms “architectural” and “architecture” in S3DA Design’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536(a), as defined in CCR, title 16, section 134(a). The citation became final on May 14, 2020.

Karim Moradi (San Diego) - The Board issued a one-count citation that included a \$1,000 administrative fine to Karim Moradi, dba S3DA Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged Moradi solicited business from a California licensed architect as the “Technical Marketing Manager” of a company named “S3DA Structural & Architectural Design.” Both the company’s website and Moradi’s personal email signature included “Structural & Architectural” in the logo to describe the services offered by the company. Moradi’s personal LinkedIn profile described him as an “Architectural Designer” under *Experience* and included “Architectural Design” under *Skills & Endorsements* to describe his services. Moradi’s personal Twitter profile stated, “We provide #Architectural #Structural...#California” services. Moradi used the term “architectural” in S3DA Design’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536(a), as defined by CCR, title 16, section 134(a). The citation became final on May 14, 2020.

Ann Y. Sullivan (Kensington) – The Board issued a one-count citation that included a \$500 administrative fine to Ann Y. Sullivan, architect license number C-6498, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Sullivan certified false or misleading information on her 2019 License Renewal Application and completed the coursework on disability access requirements after her July 31, 2019 license renewal date. Sullivan paid the fine, satisfying the citation. The citation became final on May 22, 2020.

June 2020

John F. Hussey (El Cajon) - The Board issued a one-count citation that included a \$500 administrative fine to John F. Hussey, architect license number C-16803, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Hussey certified false or misleading information on his 2019 License Renewal Application and completed the coursework on disability access requirements after his August 31, 2019 license renewal date. The citation became final on June 19, 2020.

Nancy Keenan (Pleasanton) - The Board issued a one-count citation that included a \$500 administrative fine to Nancy Keenan, architect license number C-17751, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Keenan certified false or misleading information on her 2019 License Renewal Application and completed the coursework on disability access requirements after her November 30, 2019 license renewal date. Keenan paid the fine, satisfying the citation. The citation became final on June 17, 2020.

Agustin De Jesus Garcia Rivas (Menifee) The Board issued a one-count modified citation that included a \$1,000 administrative fine to Agustin De Jesus Garcia Rivas, aka Agustin Garcia, dba Jenkins & Garcia Architecture, an unlicensed individual, for violations of BPC section 5536 (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect).

On or about January 27, 2017, Rivas prepared and executed a written contract to provide architectural services for a project in Lakeview, California for a fixed fee of \$4,000. The contract included “Lic# 4179,” which belonged to Rivas’ deceased business partner, architect Robert G. Jenkins, who had passed away on August 8, 2016. The contract used the terms “architect,” “architecture,” and “architectural” to describe Rivas’ services. Rivas continued to use the business name “Jenkins & Garcia Architecture” in advertising until 2018.

Rivas’ contract and advertising, wherein Rivas offered “architecture” and “architectural” services, are devices that might indicate to the public that Rivas is an architect or qualified to engage in the practice of architecture in California.

Rivas' use of the business name "Jenkins & Garcia Architecture" without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity violated BPC section 5536 and CCR, title 16, section 134(a). The citation became final on June 27, 2020.

Anat Shmariahu (Los Gatos) - The Board issued a one-count modified citation that included a \$1,500 administrative fine to Anat Shmariahu, dba Anav Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Shmariahu executed an "Architectural Design Proposal," which included a feasibility study for remodel designs, a complete set of "architectural drawings," delivery of drawings, and submittal to the City of San Jose to obtain a permit. Shmariahu's personal profile on Dwell.com described "White House" and "Japan House" projects, which identified her as the "architect" and stated, "I directed the architecture and interior design of the house...." Shmariahu's company website and Bayflickr profile stated Anav Design "is specialized in single houses architecture." The citation became final on June 11, 2020.

Kyle K. Smith (Torrance) - The Board issued a one-count citation that included a \$2,000 administrative fine to Kyle K. Smith, dba West Palm Group, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect). The action alleged that a homeowner from southern California hired Smith and his company West Palm Group to perform architectural and engineering services to repair damage done to their home. The homeowner alleged that Smith misrepresented himself as an architect and an engineer. Smith's business card for West Palm Group included the description of services "ARCHITECTURE, ENGINEERING, PLANNING."

The action alleged that Smith submitted plans to the City of Torrance building department with a circular stamp with the following written on it. "LICENSED [sic] ARCHITECT"; the name and license number of a California licensed architect, "Exp. 12/31/2019"; and "STATE OF CALIFORNIA." In addition, page A1.0 of the plans dated April 15, 2019, stated "DRAWN: KKS" and "APPROVED: KKS." The license number used belongs to an architect who had no involvement with the Respondent or the project. The stamp used was deceptively similar to that required for licensed architects by BPC section 5536.1(b) and CCR, title 16, section 136. The citation became final on June 17, 2020.

Chiou-Yeong Wu (Rowland Heights) - The Board issued a one-count modified citation that included a \$250 administrative fine to Chiou-Yeong Wu, architect license number C-26073, for alleged violations of BPC section 5536.22(a) (Written Contract Requirements) and CCR, title 16, section 160(f)(1) (Informed Consent). The action alleged that on or about October 22, 2018, Wu prepared a written contract to provide Mr. W.C.C. (client) with schematic design, design development, and construction documents for an existing garage conversion to be permitted as an Accessory Dwelling

Unit located on Hollis Street in Hacienda Heights, California for a fixed fee of \$3,800. On or about October 22, 2018, the client signed the contract and provided Wu with an initial payment of \$1,900. The contract did not include Wu's license number. In an invoice to the client, dated July 26, 2019, Wu billed \$1,520 for a second payment, \$200 for "Additional works for unpermitted addition to existing garage," and \$380 for a third payment. The "Additional Services" provision in Wu's contract stated that the additional services shall only be provided if authorized or confirmed in writing by the owner. There was no written document with the client's permission to do this "additional" work, and this led to a dispute over the fees. Wu's failure to include his license number in the written contract for the above-referenced project constitutes a violation of BPC section 5536.22(a). Wu also materially altered the scope of the project without obtaining the consent of his client in writing, a breach of his contract and violation of CCR, title 16, section 160(f)(1). Wu paid the fine, satisfying the citation. The citation became final on June 11, 2020.

July 2020

Steve Balikian (Santa Barbara) The Board issued a two-count citation that included a \$2,000 administrative fine to Steve Balikian AKA Estabon Balikian, dba SB Builders AKA Santa Barbara Builders, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and BPC section 5536(a) as described in BPC section 5536.5 (State of Emergency; Practice Without License or Holding Self Out as Architect). The action alleged that Balikian's LinkedIn, Houzz, and Yelp profiles, as well as his business website, offered "Architecture" and "Architectural" services and stated that he had a "team of architects." Balikian's business website also had a page titled "Re-Building after the Thomas Fire," which offered resources for victims of the fire that was declared a state of emergency by Governor Jerry Brown on or about December 5, 2017. The page also stated, "If you need help building in this stressful time...we have in-house architects," and then offered a free consultation. The citation became final on July 12, 2020.

Elmer Barco (Orange) The Board issued a two-count citation that included a \$3,500 administrative fine to Elmer Barco, dba Bar International Design and Development Co., Inc. (Bar International), Bar Building Division, LLC, and The Development Bar, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that an auto and truck services company (client) hired Barco and his company, Bar International, in September 2014, to design and engineer a 1,400 square foot gas station convenience store in Bell Gardens, California. The contract between the client and Bar International dated September 29, 2014, was signed by Barco's unlicensed partner Michael Burke as "Architect for Bar International Design & Development Inc.," and promised schematic design, architectural sheets, and "plans finalized for architectural stamp." Change orders dated October 14, 2014; October 30, 2014; January 8, 2015; February 10, 2015;

and April 3, 2015, included an “Architect’s Project Number,” specified “Not valid until signed by architect,” and were signed by Michael Burke.

Barco’s invoices to the client dated October 2, 2014, October 8, 2014, October 4, 2014, October 30, 2014, and November 13, 2014, itemized conceptual design, schematic design, and design development of “plans finalized for architectural stamp.” The company’s contract with an outside engineering firm dated March 5, 2015, designated Michael Burke of Bar International as the architect of record. Preliminary design sheets for the Bell Gardens project displayed a title block listing Commercial Design and Architecture under Bar International’s description of services. A design agreement between the client and Bar Building Division, LLC dated March 24, 2016, promised “Complete architectural drawings” and “All documentation for planning commission submittal.” Barco used a contract signed by Michael Burke as Architect for Bar Building Division, LLC, Project Status Reports specifying “architectural/ planning commission submittal,” and an Estimated Timeline for “complete architectural” services.

As new commercial construction, the designs for a gas station convenience store, restaurant, and expansion are not exempt from licensing requirements under BPC section 5537. Barco represented his company as an architectural firm, provided architectural services, and included architecture in his company’s description of services without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, which violated BPC section 5536 and CCR, title 16, section 134.

In February 2020, Barco’s business, The Development Bar, maintained a website offering project management and design services and featured the design of the client’s gas station convenience store among its many commercial design accomplishments. By advertising non-exempt commercial architectural services through his company’s website, Barco violated BPC section 5536(a). The citation became final on July 30, 2020.

Spencer C. Decker (San Francisco) The Board issued a one-count modified citation that included a \$500 administrative fine to Spencer C. Decker, architect license number C-25211, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Decker failed to maintain records of his continuing education coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Decker paid the fine, satisfying the citation. The citation became final on July 20, 2020.

Jon F. Edelbaum (Santa Cruz) The Board issued a two-count citation that included a \$1,500 administrative fine to Jon F. Edelbaum, architect license number C-31763, for alleged violations of BPC sections 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements); 5584 (Willful Misconduct) and CCR, title 16, section 160(b)(2) (Failure to Respond to

Board Investigation). The action alleged that Edelbaum certified false or misleading information on his 2019 License Renewal Application and failed to respond to the Board's requests for information regarding his continuing education coursework within 30 days. The citation became final on July 30, 2020.

Sonia Ekmakji (West Hills) The Board issued a one-count citation that included a \$2,000 administrative fine to Sonia Ekmakji, dba Archi-Tec, Archi-Tec Design and Remodling, Archi.Tec Designer, and Architec1, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Ekmakji prepared a written contract to provide architectural services for a new recreation room by preparing plans through submittal and approval of permits and Title 24 clearance at her client's home located in West Hills, California for a total "architectural fee" of \$6,597.95. The agreement was signed in the name of "ARCHI-TEC DESIGN AND REMODLING."

Ekmakji's business card included the business name "ARCHI TEC" and the email address ARCHITEC1@YAHOO.COM. Ekmakji's Yellow Pages profile included the business name "Architec1" and was categorized under "Architectural Designers" and her OpenGovUs profile was operating under the business name "Archi Tec Designer." Ekmakji used the term "Arch" in her company names or description of services, without an architect who was in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity, a violation of BPC section 5536(a) as defined in CCR, title 16, section 134. Ekmakji paid the fine, satisfying the citation. The citation became final on July 22, 2020.

Julio C. Gener (Costa Mesa) The Board issued a one-count citation that included a \$500 administrative fine to Julio C. Gener, architect license number C-20599, for a violation of BPC section 5536.22(a) (Written Contract).

On or about August 18, 2017, Gener entered into a contract with a client to obtain a Conditional Use Permit (CUP) for an auto display and gun range located in the city of Huntington Beach. This contract's scope was to create as-built plans to get the project approved for a CUP and provide production plans, which excluded any additional design or engineering. The CUP was obtained from the City of Huntington Beach on or about February 1, 2018. On or about March 2, 2018, Gener submitted construction documents for the project remodel to the city of Huntington Beach for plan check approval and feedback. These documents were dated February 7, 2018, and included a new restroom, kitchen, and parking layout.

On or about March 6, 2018, after submitting the preliminary drawings to the city, Gener emailed the client a written contract "memorializing" their oral amendment to the initial contract, but the client never signed it.

A dispute arose regarding the timeline and Gener was terminated from the project on or about March 23, 2018. Gener had worked on the project without an executed contract

until his termination, a violation of BPC section 5536.22(a). Gener paid the fine, satisfying the citation. The citation became final on July 24, 2020.

Roland Ketelsen (Sacramento)—The Board issued a one-count citation that included a \$2,500 administrative fine to Roland Ketelsen, architect license number C-23046, for alleged violations of BPC section 5584 (Negligence) and CCR, title 16, section 160(a)(2) (Professional Misconduct). The action alleged that the Elk Grove Water District (EGWD) hired Ketelsen to provide professional architectural and engineering services for a new Information Technology Center containing offices, a meeting room, and a server room. EGWD is a department of the Florin Resource Conservation District (FRCD) and operates the City of Elk Grove's water system. The server room contained the computer servers that manage all the water district's computer systems, including the system that allows water treatment operators to monitor the public drinking water system that serves more than 39,000 people.

Ketelsen and his mechanical engineering sub-consultant Sigma Engineering specified a 1.5-ton Mitsubishi M-Series split system air conditioning unit for the server room. Based on that specification, the 1.5-ton M-series unit was purchased and installed. On December 10, 2018, the air conditioning unit stopped providing cooling air. The temperature in the server room rose to 115-degrees Fahrenheit and the computer servers shut down due to heat overload. The next morning, an independent air conditioning company (COAC) was brought in to diagnose the problem. The COAC technician determined that, according to the manufacturer's data sheet, the installed M-series unit was designed for comfort cooling, not for equipment cooling, and that the P-series Mitsubishi should have been specified. The M-series coolant, in a separate "split" unit outside the building, freezes when the outside temperature drops too low, causing the air conditioner to shut down.

Ketelsen was notified of the improper specification and took no immediate action to address the problem. On December 17, 2018, the same problem occurred with the M-series unit and temperatures in the server room again rose to dangerous levels. Due to the criticality of the computer servers to the water district's operations, the water district had COAC remove the M-series and install a P-series unit at a cost of \$8,201. On January 14, 2019, a meeting to discuss the problem was scheduled between the Mitsubishi Sales Engineer/Area Manager, the General Manager of the water district, the FRCD General Manager, Ketelsen, and the principal of Sigma Engineering. Ketelsen and the representative from Sigma Engineering both failed to show up for the meeting. The representative from Mitsubishi confirmed that the P-series air conditioner is the proper unit for a server room, and the M-series is not recommended for that application.

Ketelsen's failure to specify and design the appropriate HVAC system, and his failure to assist the owner in resolving the problem constitute negligence in the practice of architecture, violations of BPC section 5584 and CCR, title 16, section 160(a)(2). The citation became final on July 30, 2020.

Robert Alan Massetti (Rocklin) The Board issued a one-count citation that included a \$2,500 administrative fine to Robert A. Massetti, architect license number C-12648, for violations of BPC section 5584 (Negligence) and CCR, title 16, section 160(a)(2) (Professional Misconduct).

The action alleged Massetti executed a contract with an unlicensed individual to provide consultation and working drawings with stamp and signature for a new two-story single-family residence. The architectural plans were approved by Sacramento County for a building permit but the stair dimensions were not compliant with the current California Building Code.

Massetti's failure to apply the correct building laws and codes by signing and stamping plans with non-compliant stair dimensions constituted a violation of BPC section 5584 and CCR, title 16, section 160(a)(2). Massetti paid the fine, satisfying the citation. The citation became final on July 10, 2020.

Jeffrey T. Smith (San Clemente) The Board issued a one-count modified citation that included a \$500 administrative fine to Jeffrey T. Smith, architect license number C-19093, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Smith failed to maintain records of his continuing education coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on July 23, 2020.

August 2020

Pedro Aguilar (Bakersfield) - The Board issued a two-count citation that included a \$3,000 administrative fine to Pedro Aguilar, an unlicensed individual, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5536(b) (Misrepresentation; Stamp) and CCR, title 16, section 134(a) (Use of the Term Architect). The action alleged that Aguilar, a draftsman, used the stamp, signature, and title block of his employer, a California licensed architect.

The action alleged that homeowners from Bakersfield paid Aguilar over \$10,000 to design a balcony and staircase for the second floor of their home. The homeowners alleged that Aguilar misrepresented himself as an architect, signed their contract using the title "ARCH. PEDRO AGUILAR," and offered to provide "Architectural Services." Aguilar also used the email address "archfaco@gmail.com."

Aguilar's contract, billing invoices, and plans contained his employer's logo and business name that includes the term "architect." The description of his services as "Architectural," his use of the title "Architect" and his email address, are devices that might indicate to the public that Aguilar is an architect or qualified to engage in the practice of architecture in violation of BPC section 5536(a) and CCR, title 16, section 134(a).

The plans created by Aguilar included the title block, logo, stamp, and signature of Aguilar's employer, a California licensed architect who had no knowledge of the project, in violation of BPC section 5536(b). The citation became final on August 20, 2020.

Alan Gregory Estrada (Pleasant Hill) - The Board issued a two-count modified citation that included a \$1,250 administrative fine to Alan Gregory Estrada, architect license number C-20258, for violations of BPC sections 5584 (Negligence) and 5536.22(a)(4) and (5) (Written Contract) and CCR, title 16, section 160(a)(2) (Professional Misconduct).

The action alleged Estrada executed a contract to obtain a building permit for a second dwelling unit remodel in Oakland, California. The contract was not executed by Estrada and did not include either a description of the procedure to accommodate additional services, or a description of the procedure to be used to terminate the contract.

The design for the project was rejected by the city of Oakland because the design did not meet setback and size requirements. Estrada had assumed the distance to the property line based on the location of a fence and failed to initiate a survey in order to determine the correct setback.

Estrada's failure to initiate a survey prior to commencing the project, which resulted in the project being rejected by the city of Oakland, is a violation of BPC section 5584 and CCR, title 16, section 160(a)(2).

Estrada's failure to include all of the required elements in his written contract and his failure to execute it constitute violations of BPC section 5536.22(a)(4) and (5). Estrada paid the fine, satisfying the citation. The citation became final on August 28, 2020.

Florencio Hernandez (San Bernardino) - The Board issued a two-count citation that included a \$2,000 administrative fine to Florencio Hernandez, dba JH Design & Drafting Services, an unlicensed individual, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5536.1(c) (Practicing Architecture).

The action alleged that Hernandez's firm, JH Design & Drafting, offered to design an addition to a commercial building in Hemet, California. In addition, JH Design & Drafting created plans for a second commercial building in San Bernardino, California.

Because offering to design an addition to an existing commercial building and preparing plans for the construction of a new commercial building are not exempt services under BPC sections 5537 or 5538, such conduct constitutes violations of BPC sections 5536(a) and 5536.1(c). The citation became final on August 14, 2020.

Josue Hernandez (San Bernardino) - The Board issued a two-count citation that included a \$2,000 administrative fine to Josue Hernandez, dba JH Design & Drafting Services, an unlicensed individual, for alleged violations of BPC sections 5536(a) (Practice Without License or Holding Self Out as Architect) and 5536.1(c) (Practicing Architecture).

The action alleged that Hernandez's firm, JH Design & Drafting, offered to design an addition to a commercial building in Hemet, California. In addition, JH Design & Drafting created plans for a second commercial building in San Bernardino, California.

Because offering to design an addition to an existing commercial building and preparing plans for the construction of a new commercial building are not exempt services under BPC sections 5537 or 5538, such conduct constitutes violations of BPC sections 5536(a) and 5536.1(c). The citation became final on August 14, 2020.

September 2020

Aaron Robinson (Santa Barbara) - The Board issued a one-count citation that included a \$1,500 administrative fine to Aaron Robinson, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect).

The action alleged that Robinson used the business name "re:design Architectural Studios" to do business in California and used the website www.redesignarchitecturalstudios.com to offer architectural services in Santa Barbara, as well as other locations in California. The website advertised "bespoke architectural design," "efficient architectural home design plans," "detail oriented architecture," and "architectural / landscape design." The website also showed a design concept for a three-story residence titled "The Bermuda," which is not an exempt structure under BPC section 5537.

The website for the Bontena Brand Network contained an interview with Robinson that described him as "Owner and Principle Designer of re:design architectural studios from Santa Barbara."

Robinson's Yelp, Houzz, Facebook, and LinkedIn profiles used the business name "Redesign Architectural Studios," listed the business as located in Santa Barbara, and referred to Robinson as the "Senior Architectural Designer." The profiles also referred to the business as an "architecture and design firm" which offered "architectural plans" and "architectural design" services in Santa Barbara, Los Angeles, Southern California, and "anywhere you want to live." Robinson's business profiles on Yellowpages, Payhip, and Alignable used the name "re:design Architectural Studios," and the address in Santa Barbara, California.

Robinson's business name, website, online profiles, and articles, wherein he described himself as an architectural designer and his services as "Architecture" and "Architectural," are devices that might indicate to the public that Robinson is an architect or qualified to engage in the practice of architecture in California. Such conduct constitutes violations of BPC section 5536(a) and CCR, title 16, section 134(a). The citation became final on September 3, 2020.

Final Administrative Actions – December 2019

Christine J. Bodouva (Sands Point, NY) Effective December 30, 2019, Christine J. Bodouva's architect license number C-32846 was revoked; however, the revocation was stayed, her license was suspended for 90 days, and she was placed on probation for five years with specific terms and conditions, including reimbursing the Board \$5,327.50 for its enforcement costs, completing a course in Law and Ethics, payment of a \$5,000 fine, and notifying her clients of her probation status. The action came after a Stipulated Settlement was adopted by the Board.

An Accusation was filed against Bodouva for alleged violations of Business and Professions Code (BPC) sections 490 (Conviction of Crime) and 5577 (Conviction of a Crime Substantially Related to the Qualifications, Duties, and Functions of an Architect). Specifically, on or about November 10, 2016, in the criminal proceeding titled *United States of America v. Christine J. Bodouva*, United States District Court, Southern District of New York, Case No. I:16-CR-00214-(01)(VEC), Bodouva was convicted by a jury of being guilty of violating one count of United States Code, title 18, section 664 (embezzling funds from an employee pension benefit plan), a felony. Bodouva was sentenced to one year and one day in federal prison, supervised release for two years, 500 hours of community service, a monetary penalty of \$5,100, and forfeiture in the amount of \$127,854.22.

March 2020

David A. Udkow (Scottsdale, AZ) Effective March 30, 2020, David A. Udkow's architect license number C-8912 was revoked, and he thereby lost all rights and privileges as an architect in California. The action was a result of a Default Decision and Order, which was adopted by the Board on February 28, 2020.

An Accusation was filed against Udkow for alleged violations of BPC sections 5586 (Discipline by a Public Agency), 5579 (Fraud in Obtaining License), 5582, and 5582.1, and California Code of Regulations (CCR), title 16, section 151 (Aiding Unlawful Practice).

The Accusation alleged that on or about August 22, 2012, the Nevada State Board of Architecture, Interior Design, and Residential Design (Nevada Board) adopted a Settlement Agreement and Order that disciplined Udkow for (1) reviewing and sealing architectural drawings for three projects in Las Vegas, Nevada for submittal to the building department that were not prepared under his responsible control; (2) aiding an unauthorized person to practice architecture in Nevada; and (3) not executing a written contract with the client before providing professional services. On or about October 1, 2012, Udkow surrendered his architect license to the Nevada Board.

Udkow also was disciplined by the Colorado Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors (Colorado Board) and the Montana Board of Architects and Landscape Architects (Montana Board) on January 21, 2014, and April 7, 2015, respectively, based upon the action that was taken

against him by the Nevada Board. The Colorado Board issued a Letter of Admonition to the Subject, and the Montana Board suspended his license through a Final Order by Default.

A review of Udkow's 2013 and 2015 California Architect License Renewal Applications dated June 20, 2013, and May 25, 2015, respectively, revealed that he had indicated under penalty of perjury that he had not been disciplined by a public agency during either of the previous two-year renewal cycles.

On or about March 2, 2016, an Ohio architect issued a "Consultant Work Authorization" to Udkow to "Review/Sign/Seal plans for Landlord and City submittal" for a fee of \$1,700 to obtain a building permit for a business referred to as BTG in Torrance, CA. The next day, Udkow signed and stamped the construction documents, which had not been prepared by him, or under his responsible control.

July 2020

Ethan Wilson Clifton (Santa Rosa) Effective July 6, 2020, Ethan Wilson Clifton's architect license number C-11466 was revoked. The action came after a Default Decision was issued by the Board.

An Accusation filed against Clifton alleged six causes for discipline for violations of: (1) BPC section 5585 and CCR, title 16, section 160(a)(2) (Incompetency); (2) BPC sections 5536.4(b), 5578, and 5584 (Willful Misconduct, Failure to Release Instruments of Service); (3) BPC sections 5584 and 5585 (Willful Misconduct and Recklessness); (4) BPC section 5584 (Willful Misconduct); (5) BPC sections 5536.22(a)(3) and (4) and 5578 (Failure to Comply with Contract Requirements); and (6) BPC section 5584 and CCR, title 16, section 160(b)(2) (Willful Misconduct, Failure to Respond to Request for Evidence).

The Accusation alleged that on or about April 15, 2015, Clifton executed a contract to design a new residence to replace his clients' existing home in Redwood City, California. The contract did not contain Clifton's architect license number or a description of the procedure to accommodate additional services.

Clifton initially told his clients that construction drawings would be completed by May 2015; however, after several delays and revised completion dates, Clifton indicated that his final drawings would be submitted to the building department on September 22, 2015. Based on this anticipated submission date, Clifton then recommended that the clients demolish their existing home in preparation for the construction of their new home. Acting on his advice, the clients demolished their home in September 2015. For over three years, the clients then rented another home awaiting completion of construction.

On or about January 14, 2016, Clifton suggested the clients obtain a partial permit for foundation and slab construction, but they were unable to do so because Clifton had

not finished the construction drawings. The clients had paid all of Clifton's invoices to that date, approximately \$52,000, but never received completed construction drawings from him and had to engage another architect to complete the project.

Clifton then refused to release his drawings to the new architect unless the clients paid him an additional \$35,000. He later increased this amount to \$65,000. Additionally, Clifton told the clients' structural and mechanical engineers and Title 24 consultant, who were under contract with the clients, to cease work and destroy all their documents.

On July 1, 2016, the Board requested a written response to the allegations and supporting documents from Clifton. In response, he provided only a brief statement, copies of his correspondence to the Better Business Bureau, and the clients' draft lawsuit against him.

The Board's Default Decision and Order was issued on June 5, 2020, and became effective on July 6, 2020.

**AGENDA ITEM F: DISCUSS AND POSSIBLE ACTION ON 2019-2021
STRATEGIC PLAN OBJECTIVES**

- F.1 Responsible Control Within Design-Build and Development Firms
- F.2 Management Control Within the Design-Build Model
- F.3. Restricting Advertisement of Architectural Services by Unlicensed Entities: Proposed Adoption of California Code of Regulations (CCR), Title 16, Division 2, Article 8, Section 135 to Require Architect License Number in Advertising

AGENDA ITEM F.1: RESPONSIBLE CONTROL WITHIN DESIGN-BUILD AND DEVELOPMENT FIRMS

Summary

The Board's 2019-2021 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee to educate architects regarding their responsibilities under Business and Professions Code (BPC) section 5535 "responsible control" and California Code of Regulations (CCR) section 151 "aiding and abetting," to protect consumers from unlicensed practice.

The Board's Enforcement Unit regularly receives complaints of aiding and abetting of unlicensed practice by architects who collaborate with design-build and development firms. These usually arise when a homeowner client has a complaint related to the design of their project, but they have never had contact with their architect and often have no record of who the architect is. When there is no contractual relationship between the client and the architect, the architect often maintains plausible deniability.

These business relationships are legal under the Architects Practice Act, but cause confusion among architects, contractors, developers, and other business owners regarding the necessary involvement of licensed architects in a firm's corporate structure and the level of control that they are required to maintain over architectural designs. Adding to this confusion is the general practice of some unlicensed developers including provisions for architectural services in their contracts.

CCR section 134 prohibits the use of the word architect in a business name or description of services unless there is a licensed architect who is either a part-owner, an officer or an employee in management control of the professional services that are offered and provided by the business entity. An architect who works for such a firm as an independent contractor is liable for aiding and abetting, because they do not have management control over the company's exempt projects, yet they allow the company to use their name to advertise architectural services. On the other hand, an architect who is an employee might not be aware that they are responsible for all the professional services offered by that company.

Two solutions are available to us:

1. Compliant contract with signature of architect:

BPC section 5536.22 requires a contract for architectural services to contain the name and license number of the architect in responsible control. BPC section 5536.1 requires the architect in responsible control to sign all contracts therefor. This may not always be the practice in business relationships between architects and developers, but it is required, and enforcement of these provisions greatly benefits consumers.

2. Business Entity Report Form (BERF) acknowledging management control

Agenda Item F.2 includes a proposal to modify the BERF to remind architects of their responsibilities when collaborating with a firm that advertises architectural services.

Steps Taken to Date to Meet Objective

On August 1, 2019 Board staff recommended and the REC unanimously approved publishing an Informational Bulletin describing case analyses and the laws covering issues of responsible control and aiding and abetting. The Bulletin was published on the Board's website and it is frequently disseminated to architects in potential violation of aiding and abetting.

The Bulletin has been updated (see Attachment 1) to include the new provisions of the written contract requirement under BPC section 5536.22 effective January 1, 2020, and to remind architects of their need to sign all contracts under which they provide services.

A Chart has been published (see Attachment 2) and updated which delineates the types of design projects that may legally be controlled by unlicensed persons, architects or engineers.

Action Requested

The Committee is asked to consider the updated Informational Bulletin, provide feedback about their understanding of current business practices in the profession, and discuss the need for regulations that would clarify the relationship between architects and design-build firms.

Attachment(s)

1. Informational Bulletin: Responsible Control Within the Design-Build Model
2. Design Limitations Chart for Professionals



Informational Bulletin: Responsible Control Within the Design-Build Model

Recent expansion of the design-build business model in California has resulted in confusion among architects, contractors, and business owners regarding the necessary involvement of licensed architects in a firm's corporate structure and the level of control each are required to maintain over architectural designs. This article addresses the legal and professional responsibilities of owners and architects associated in a design-build relationship.

The Architects Practice Act (Act) does not prevent a corporation from contracting out architectural services, as long those services are under the responsible control of a licensed architect (Business and Professions Code (BPC) § 5535.3). "Responsible control" means that level of control over the content of architectural instruments of service during their preparation that is ordinarily exercised by an architect applying the required professional standard of care. (BPC § 5535.1). An architect in responsible control of plans, specifications, and instruments of service for others shall sign and stamp those plans, specifications, and instruments of service and all contracts therefor (BPC § 5536.1).

If a business includes in its name or description of its services the term "architect," "architecture," or "architectural," or any abbreviation or confusingly similar variation thereof, that business must have a licensed architect who provides management control of the professional services that are offered and provided by the business and who is also an owner, part-owner, officer, or an employee of the business. (California Code of Regulations (CCR) § 134, subs. (a).) Furthermore, all of the professional services offered by that business must be offered and provided by or under the responsible control of a licensed architect. (CCR § 134, subs. (b).) **This includes structures, such as single family residences, that would otherwise be exempt from licensing requirements under BPC section 5537.**

If an architect signs instruments of service which have not been prepared by them, or under their responsible control, or has permitted their name to be used for the purpose of evading the Act, the architect is subject to disciplinary action. (BPC § 5582.1; CCR § 151.)

The Board's Enforcement Unit has seen these factors come into play, for example, when a business named "Acme Architecture" contracts out, on a project-by-project basis, with one or more licensed architects. Under BPC section 5535.3 and CCR section 134, such a business can contract out the work, but it is not allowed to use the term "architecture" in its name or advertising.

Many architects believe that they can maintain such an arrangement and have no responsibility for the company's exempt projects. However, if the business includes the term "architecture" in their name or advertises that they provide architectural services, the architect must at least be an "employee" (as defined by the Internal Revenue Service) and must be in management control over all of that company's professional services.

If an architect allows their name to be used by such a business without being in management control of all their professional services, the owner of the business is subject to citation under BPC section 5536 and CCR section 134, while the architect is subject to disciplinary action under BPC section 5582.1 and CCR section 151.

Architects Practice Act Sections Involving Responsible Control

Business and Professions Code

Section 5535.1 Responsible Control Defined

The phrase "responsible control" means that amount of control over the content of all architectural instruments of service during their preparation that is ordinarily exercised by architects applying the required professional standard of care.

Section 5535.3 Corporation Responsible Control

This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects' professional services are offered and provided under the responsible control of a licensed architect or architects.

Section 5536(a) Practice Without License or Holding Self Out as Architect

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

Section 5536.1(a) Signature and Stamp on Plans and Documents

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

Section 5536.22(a) Written Contract

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

- (1) A description of the project for which the client is seeking services.
- (2) A description of the services to be provided by the architect to the client.
- (3) A description of any basis of compensation applicable to the contract and the method of payment agreed upon by both parties.
- (4) The name, address, and license number of the architect, the name and address of the client, and the project address.
- (5) A description of the procedure that the architect and the client will use to accommodate additional services and contract changes, including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment.
- (6) A description of the procedure to be used by either party to terminate the contract.
- (7) A statement identifying the ownership and use of instruments of service prepared by the architect.
- (8) A statement in at least 12-point type that reads: "Architects are licensed and regulated by the California Architects Board located at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834."

Section 5537(a) Exemptions

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
- (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.

(2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.

(3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.

(4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

Section 5558 Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements

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

Section 5582 Aiding Unlawful Practice

The fact that the holder of a license has aided or abetted in the practice of architecture any person not authorized to practice architecture under the provisions of this chapter, constitutes a ground for disciplinary action.

Section 5582.1 Signing Other's Plans or Instruments; Permitting Misuse of Name

(a) The fact that the holder of a license has affixed his or her signature to plans, drawings, specifications, or other instruments of service which have not been prepared by him or her, or under his or her responsible control, constitutes a ground for disciplinary action.

(b) The fact that the holder of a license has permitted his or her name to be used for the purpose of assisting any person to evade the provisions of this chapter constitutes a ground for disciplinary action.

California Code of Regulations

Section 134(a) and (b) Use of the Term Architect; Responsible Control within Business Entity

(a) Use of the Term Architect: It shall be unlawful for any person to use a business name that includes as part of its title or description of services the term "architect," "architecture," or "architectural," or any abbreviations or confusingly similar variations thereof, unless that person is a business entity wherein an architect is: (1) in management control of the professional services that are offered and provided by the business entity; and, (2) either the owner, a part-owner, an officer or an employee of the business entity.

(b) Responsible Control within Business Entity: Where a person uses a business name that includes as part of its title or description of services the term "architect," "architecture," or "architectural," or any abbreviations or confusingly similar variations thereof, all of the professional services offered and provided by that person are to be offered and provided by or under the responsible control of an architect.

Section 151 Aiding and Abetting

(a) For purposes of Sections 5582 and 5582.1 of the code, aiding and abetting takes place when a California licensed architect signs any instrument of service which has been prepared by any person who is not: (1) a California licensed architect or civil engineer or structural engineer, or (2) a subordinate employee under his/her immediate and responsible direction, or (3) an individual, who is associated by written agreement with the architect and who is under the architect's immediate and responsible direction as described in subsection (b) of this section.

(b) The requirements of "immediate and responsible direction" as used in this section shall be deemed to be satisfied when the architect: (1) instructs the person described in subsection (a) of this section, in the preparation of instruments of service, and (2) the architect has exercised the same judgment and responsibility in reviewing all stages of the design documents and other phases of the work as required by law, and which would normally be exercised if he/she personally performed the required tasks.



DESIGN LIMITATIONS FOR PROFESSIONALS

ARCHITECTS

May design any building of any type except: The structural portion of a hospital.

APPLICABLE STATUTES

Section 129805 of Health & Safety Code
Sections 5500.1, 6737 of Business & Professions Code

CIVIL ENGINEERS

May design any building except: Hospitals and Public Schools.

APPLICABLE STATUTES

Section 129805 of Health & Safety Code
Section 17302 of Education Code
Sections 5537.5, 6731, 6735 of Business & Professions Code

STRUCTURAL ENGINEERS

No limitations; may design any building of any type.

APPLICABLE STATUTES

Sections 6731, 6736, 5537.1 of Business & Professions Code

UNLICENSED PERSONS

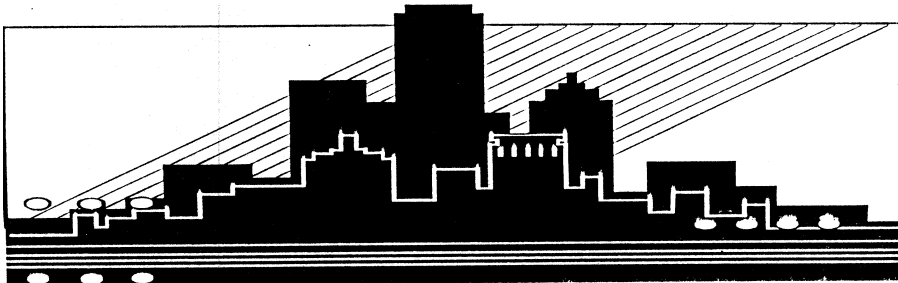
Limited to design of:

- ⇒ Single-family dwellings of woodframe construction not more than two stories and a basement in height.
- ⇒ Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and a basement in height. Not more than four dwelling units per lot.
- ⇒ Garages or other structures appurtenant to other exempt buildings, of woodframe construction not more than two stories and a basement in height.
- ⇒ Agricultural and ranch buildings of woodframe construction.*
- ⇒ Nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment including nonstructural or nonseismic work necessary to provide for their installation.
- ⇒ May not design any component that changes or affects the safety of any building, including but not limited to structural or seismic components.

* *Unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.*

APPLICABLE STATUTES

Sections 5537, 5538, 6737.1 of Business & Professions Code



AGENDA ITEM F.2.: MANAGEMENT CONTROL WITHIN THE DESIGN-BUILD MODEL

Summary

The Board's 2019-2021 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to educate architects regarding their responsibilities under Business and Professions Code (BPC) section 5535 "responsible control" and California Code of Regulations (CCR) section 151 "aiding and abetting," (see Attachment 1) to protect consumers from unlicensed practice.

This objective would also be met by further defining what constitutes "management control." As stated in Agenda Item F.1, CCR section 134 (see Attachment 2) prohibits the use of the word architect in a business name or description of services unless there is a licensed architect who is either a part-owner, an officer or an employee, and is also in management control of the professional services that are offered and provided by the business entity. CCR 134(c)(2) defines "management control" as meaning "general oversight of the professional services offered and provided by the business entity." This section is interpreted to mean that an architect hired as an independent contractor cannot exert management control over all professional services as required by this section.

The Board's Enforcement Unit commonly sees unlicensed and advertising complaints where design or design-build firms who do not either employ or have part-ownership with a California licensed architect advertise as having "architects" or offer "architectural" services. Upon being contacted by the Board as a result of the complaint, they will hire an architect on a consultant basis, and then have the architect submit a Business Entity Report Form (BERF) to the Board thinking that is sufficient for the requirements of CCR section 134.

An architect who works for such a firm as an independent contractor is liable for aiding and abetting, because they do not have management control over the firm's exempt projects, yet they allow them to use their name to advertise architectural services. On the other hand, an architect who is an employee for a company that is advertising architectural services might not be aware that they are responsible for all the professional services offered by that company.

Another issue commonly seen by the Enforcement Unit is that many currently practicing licensed architects do not have a BERF filed with the Board. They frequently provide professional services through sole proprietorships and think that that exempts them from being required to file a BERF.

BPC section 5558 (see Attachment 3) states that each person holding a license to practice architecture under this chapter shall file with the Board his or her current mailing address and the proper and current name and address of the entity through which they provide architectural services. This is accomplished through the filing of a BERF with the Board.

To address this Strategic Plan objective, the REC might consider the following recommendations:

1. Revise BERF (see Attachment 4):
 - a. Add an option to disassociate from a single entity and the effective date; and
 - b. Add a statement that signing of the form declares under penalty of perjury that all representations on the form are true, correct, and contain no material omissions of fact.
2. Issue a Business Entity Report Form Informational Bulletin (see Attachment 5) and include an article in the Board's newsletter explaining the requirements of BPC section 5558 and revised BERF, which will be distributed to licensees by email and posted on the "Publications" page of the Board's website.
3. Add revised BERF to the "Forms" webpage and initial licensure package.

Action Requested

The REC is asked to consider the presentation regarding this agenda item and the items above and make a recommendation to the Board to address this Strategic Plan objective.

Attachment(s)

1. California Code of Regulations, Title 16, Section 151 Aiding and Abetting
2. California Code of Regulations, Title 16, Section 134 Use of the Term Architect; Responsible Control Within Business Entity
3. Business and Professions Code Section 5558 Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements
4. Business Entity Report Form (Proposed Revisions)
5. Business Entity Report Form Informational Bulletin (Draft)

**CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 2, ARTICLE 8,
SECTION 151 AIDING AND ABETTING**

(a) For purposes of Sections 5582 and 5582.1 of the code, aiding and abetting takes place when a California licensed architect signs any instrument of service which has been prepared by any person who is not:

- (1) a California licensed architect or civil engineer or structural engineer, or
- (2) a subordinate employee under his/her immediate and responsible direction, or
- (3) an individual, who is associated by written agreement with the architect and who is under the architect's immediate and responsible direction as described in subsection (b) of this section.

(b) The requirements of "immediate and responsible direction" as used in this section shall be deemed to be satisfied when the architect:

- (1) instructs the person described in subsection (a) of this section, in the preparation of instruments of service, and
- (2) the architect has exercised the same judgment and responsibility in reviewing all stages of the design documents and other phases of the work as required by law, and which would normally be exercised if he/she personally performed the required tasks.

Note: Authority cited: Section 5526, Business and Professions Code. Reference cited: Sections 5551.1, 5582 and 5586, Business and Professions Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 10-17-88; operative 11-16-88 (Register 88, No. 44).

**CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 2, ARTICLE 5,
SECTION 134 USE OF THE TERM ARCHITECT; RESPONSIBLE CONTROL WITHIN
BUSINESS ENTITY**

Section 134

(a) Use of the Term Architect: It shall be unlawful for any person to use a business name that includes as part of its title or description of services the term “architect,” “architecture,” or “architectural,” or any abbreviations or confusingly similar variations thereof, unless that person is a business entity wherein an architect is: (1) in management control of the professional services that are offered and provided by the business entity; and, (2) either the owner, a part-owner, an officer or an employee of the business entity.

(b) Responsible Control within Business Entity: Where a person uses a business name that includes as part of its title or description of services the term “architect,” “architecture,” or “architectural,” or any abbreviations or confusingly similar variations thereof, all of the professional services offered and provided by that person are to be offered and provided by or under the responsible control of an architect.

(c) Definitions of Terms Used in this Section:

- (1) The term “professional services” shall be given the same meaning as defined in Business and Professions Code section 5500.1.
- (2) The term “management control” shall mean general oversight of the professional services offered and provided by the business entity.
- (3) The term “responsible control” shall be given the same meaning as defined in Business and Professions Code section 5535.1.
- (4) The term “business entity” shall mean any sole proprietorship, firm, corporation, partnership, limited liability partnership, or alliance formed by written agreement to practice architecture including on a single project or on a series of projects.
- (5) The term “person” shall be given the same meaning as defined in Business and Professions Code section 5535.
- (6) The term “architect” shall be given the same meaning as defined in Business and Professions Code section 5500.

Note: Authority cited: Section 5526, Business Professions Code. Reference: Sections 5535.1, 5535.2, 5535.3, 5536, 5582 and 5582.1, Business and Professions Code.

HISTORY

1. Amendment filed 3-14-56; effective thirtieth day thereafter (Register 56, No. 5).
2. Amendment filed 10-27-65; effective thirtieth day thereafter (Register 65, No. 20).
3. Repealer and new section filed 10-17-88; operative 11-16-88 (Register 88, No. 44).
4. Repealer and new section heading and section and amendment of Note filed 7-18-2008; operative 8-17-2008 (Register 2008, No. 29).
5. Editorial correction of subsection (b) (Register 2014, No. 3).

**BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 3, ARTICLE 4,
SECTION 5558 MAILING ADDRESS AND NAME AND ADDRESS OF ENTITY
THROUGH WHICH LICENSE HOLDER PROVIDES ARCHITECTURAL SERVICES;
FILING REQUIREMENTS**

Section 5558

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

(Added by Stats. 2001, Ch. 313, Sec. 2. Effective January 1, 2002.)



Architect's Business Entity Report Form

Business and Professions Code (BPC) Section 5558 of the Architects Practice Act requires every person holding an architect license to file with the California Architects Board (CAB) the name and address of the business entity (individual, firm, corporation, or limited liability partnership) through which he or she provides architectural services. **CAB must be notified immediately of any and all changes in your Business Entity Report by submitting a new report.** Please print your responses and mail this report form to CAB at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834.

INDIVIDUAL'S NAME AS LICENSED (PLEASE PRINT)	LICENSE NUMBER
	C -

- I do not currently provide architectural services, but I am aware that when I do I am required to provide a Business Entity Report to CAB immediately upon change in status.
- I provide architectural services through the following business entity (Multiple entities: If you provide architectural services through more than one entity, please copy this form and provide the name and address of each separate entity):
- I **no longer** provide architectural services through the following business entity, and wish to disassociate from it (Multiple entities: If you wish to disassociate from more than one entity, please copy this form and provide the name and address of each separate entity):

Business Entity Name and Address

NAME OF BUSINESS ENTITY (INDIVIDUAL, FIRM, CORPORATION, OR LIMITED LIABILITY PARTNERSHIP)

Note: Name and address of the business entity should be the exact business name and address through which services are offered and provided.

STREET ADDRESS OF BUSINESS ENTITY

CITY	STATE	ZIP CODE

DATE OF INITIAL LICENSED AFFILIATION WITH THIS BUSINESS ENTITY	DATE OF DISSOCIATION FROM THIS BUSINESS ENTITY, IF APPLICABLE

AREA CODE	TELEPHONE NUMBER

PRIOR TO SIGNING THIS FORM, REVIEW ALL INFORMATION.

Original signature required. I certify and declare under penalty of perjury under the laws of the State of California that all of my representations on this form are true, correct, and contain no material omissions of fact to the best of my knowledge and belief.

SIGNATURE

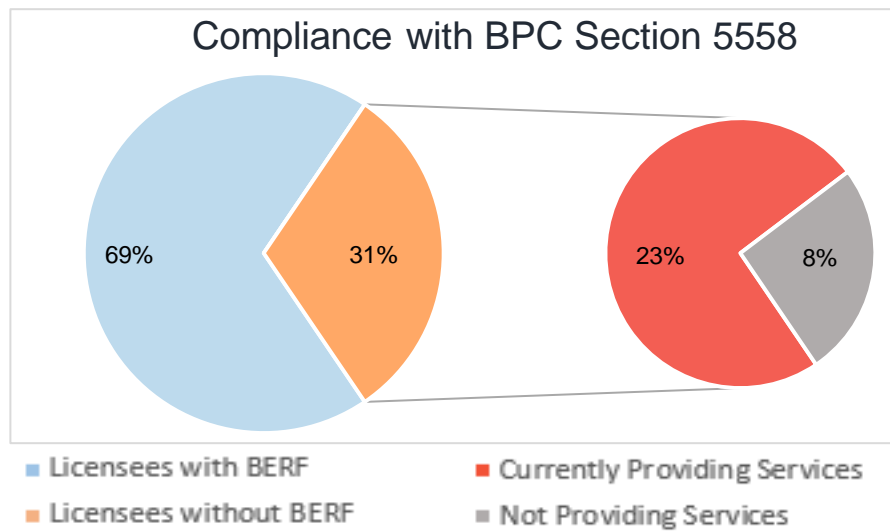
DATE OF SIGNATURE

Remember to keep your Address of Record current. If you have recently moved or wish to change your Address of Record, contact CAB for a Change of Address form at (916) 574-7220 or on the Web site www.cab.ca.gov.

Business Entity Report Form

An Informational Bulletin from the California Architects Board (Board) Regarding Compliance with Business and Professions Code (BPC) Section 5558 & Updates to the Business Entity Report Form (BERF).

The Board performed a review of licensee records and found that around 23% of current licensees appeared to be providing professional services without a BERF on file. Of those non-compliant licenses, approximately 74% were issued after 2003, when BPC 5558 was already in effect, and approximately 57% were issued after 2010. According to a report of Board records dated July 2020, the total numbers are 21,934 current licensees filed with the Board, and 15,602 BERFs filed.



All licensees who provide architectural services whether they are sole proprietors, owners, employees or independent contractors of a business entity providing architectural services are required to comply with this provision of the Act. The Board must also be immediately notified of any and all changes in your Business Entity Report Form by submitting a new report after any change.

Failure to comply with this requirement is a violation of BPC 5558 and California Code of Regulations (CCR), title 16, section 104 and can result in a citation with an administrative fine of up to \$1,000 or disciplinary action by the Board.



History of Business and Professions Code (BPC) section 5558:

BPC section 5558 was established through statute in 2001, and became effective January 1, 2002. It states:

“Each person holding a license to practice architecture under this chapter shall file with the board his or her current mailing address and the proper and current name and address of the entity through which he or she provides architectural services. For purposes of this section, “entity” means any individual, firm, corporation, or limited liability partnership.”

If you are currently providing professional services in California, you must have a BERF on file.

New and Improved BERF in 2021

Ensure you are in compliance with BPC 5558 Requirements

Effective January 1, 2021, the BERF has been updated with new fields and options. Carefully review the updated BERF and submit a new form to the Board if any changes need to be made to your record.

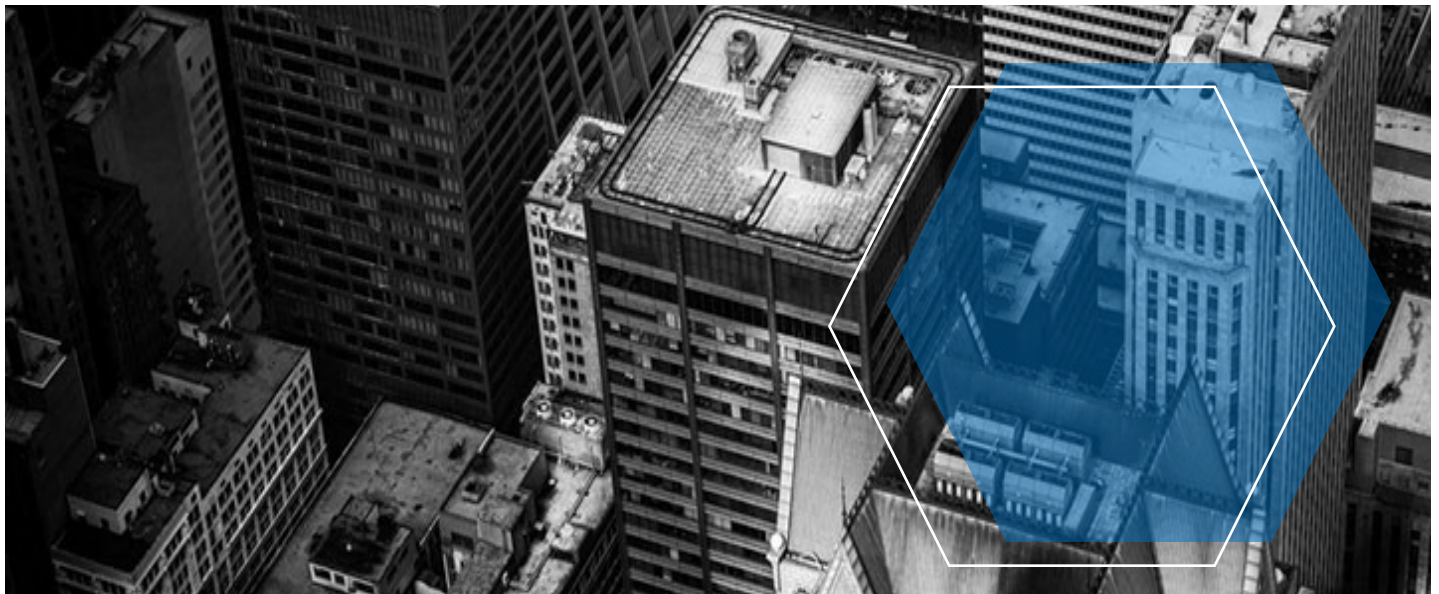
Updates to the BERF include: an option to disassociate from a single entity and a line for disassociation date, an optional check box to acknowledge that the licensee provides management control of that entity's professional services (required if the entity is advertising architectural services based on the licensee), and a statement that signing of the form is under penalty of perjury.

These new options will provide more information to consumers and assist the Board with the investigation of those who unlawfully practice architecture without a license.

Advertising Architectural Services

If a business includes in its name or description of its services the term "architect," "architecture," or "architectural," or any abbreviation or confusingly similar variation thereof, that business must have a licensed architect who provides management control of the professional services that are offered and provided by the business and who is also an owner, part-owner, officer, or an employee of the business. (CCR § 134, subs. (a).)

Furthermore, all of the professional services offered by that business must be offered and provided by or under the responsible control of a licensed architect. (CCR § 134, subs. (b).) This includes structures, such as single-family residences, that would otherwise be exempt from licensing requirements under BPC section 5537.



Need a Copy?

If you need a copy of the BERF or have any questions about this bulletin, you can download a copy of the form from the Licensee Information page of the Board Web site at www.cab.ca.gov or call the Board at (916) 574-7220. The Board must be notified immediately of any and all changes in your BERF by submitting a new report after any change. Please print, sign, and mail the updated BERF to the Board at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834.

AGENDA ITEM F.3: RESTRICTING ADVERTISEMENT OF ARCHITECTURAL SERVICES BY UNLICENSED ENTITIES: PROPOSED ADOPTION OF CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 16, DIVISION 2, ARTICLE 5, SECTION 135 TO REQUIRE ARCHITECT LICENSE NUMBER IN ADVERTISING

Summary

The Board considered the Regulatory and Enforcement Committee's (REC) recommendation at its February 28, 2020 meeting to adopt a regulation to require architects to include their license number on all forms of advertisement solicitation or other presentments to the public in connection with the rendition of architectural services. Staff presented proposed CCR section 135 (Presentment and Advertising Requirements) for the Board's consideration to meet the REC's recommendation.

The recommendation related to an objective in the Board's 2019-2021 Strategic Plan assigned to the REC to collaborate with websites to restrict advertisements from unlicensed entities. The recommendation has evolved beyond the objective because the Board does not have the authority to regulate websites and enforces the Architects Practice Act when unlicensed persons describe themselves as architects and/or offering to provide architectural services. Requiring architects to include their license number on advertisements would increase awareness to consumers that architects must be licensed and readily identify potential unlicensed activity for enforcement staff.

The proposed regulation has received support from licensed architects. Board staff sent a survey to all licensees by email and collected responses in November 2019. More than 1,500 architects responded to the survey and most architects supported the proposed regulation of requiring a license number on advertisements, with 66% reacting positively or very positively to the proposed regulation (see Attachment 1).

At its February meeting, the Board expressed concern regarding how the regulation would be implemented and whether it would protect consumers. The Board asked that the issue be sent back to the REC to find data on how such a regulation would increase consumer protection.

Board staff reached out to other Department of Consumer Affairs boards to obtain information and data and was unable to obtain conclusive data that it would increase consumer protection. Staff determined the following boards in the build environment had these requirements:

- **Landscape Architects** - The Board approved a proposed regulation to require landscape architects to post their license number on presentments to the public, which is currently in the regulatory process, so there is no data on the effect of the regulation. Below is the text of the landscape architects' regulation approved by the Board:
A landscape architect shall include his or her name, license number, and the words "landscape architect" in all forms of advertisements or presentments made to the public in connection with the rendition of landscape architectural services for which a license is required by the Landscape Architects Law, including, but not limited to, any advertisement, card, letterhead, or contract proposal.
- **Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG)** – BPELSG does not have a requirement that licensees post their license number on advertisements. Unlike the term architect, the term engineer by itself is not a protected title and the Professional Engineers Act states unlicensed persons must not refer to themselves specifically as "consulting engineer," "professional engineer," or "registered engineer."
- **Contractors State License Board (CSLB)** -The Board received data from CSLB, which has had a license number requirement since 1972. The data was inconclusive to whether the advertising requirement reduced unlicensed practice or increased consumer protection. The CSLB provided insight that it would be difficult to determine what impact the license number requirement has had on unlicensed practice, but that it increases consumer confidence through awareness that an individual with a license number has been licensed and met the requirements for a license. The CSLB stated that consumers that know about the requirement are aware that it is a red flag when someone does not have his or her license number on advertisements.

Although staff were unable to find conclusive data on whether the license number requirement would increase consumer protection or decrease unlicensed practice, the proposed regulation will increase awareness among consumers that licensed architects have license numbers meaning they are licensed by the Board by meeting all requirements for a license. Some architects already include their license number in online advertisements. Board staff created a sample advertisement to illustrate the difference to consumers (see Attachment 2).

Another concern expressed during the Board meeting is whether this regulation would be used to punish architects who fail to post their license numbers on advertisements. The regulation would not be used to punish architects, but rather licensees would be provided with an advisement of the requirement. The severity of a first-time violation would be considered when a license number is lacking in an advertisement. If it is the only violation then it would not warrant administrative action, which is similar to other less severe violations such as a lacking license number in a contract.

The Board also questioned how large firms with multiple licensees would be able to comply with the requirement; staff suggests that the person in management control put their license number on

advertisement for firms. An individual within the firm would put their license number on their personal business cards or advertisements.

Board staff updated the proposed regulation to specify that advertisements are presentments in connection to the rendition of architectural services and excluded building signs (see Attachment 3).

Action Requested

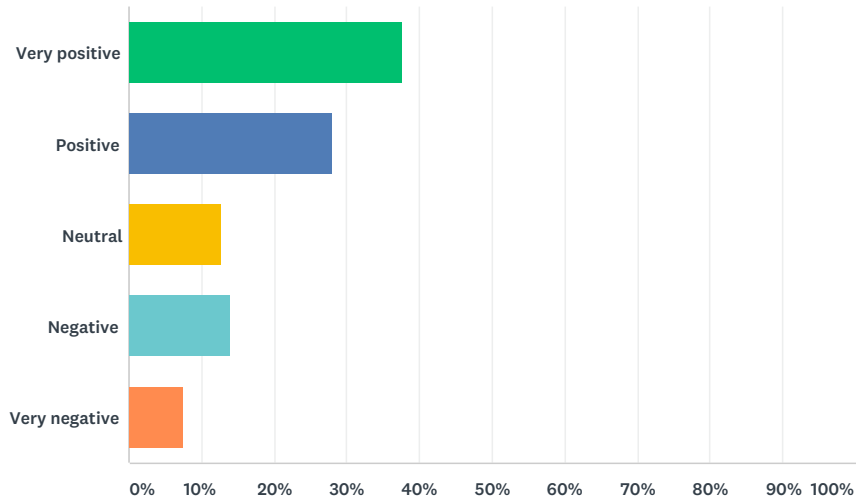
The Committee is asked to respond to the Board's request to find data on how the proposed regulation would increase consumer protection lacking any data currently available and make a recommendation for the Board's consideration.

Attachment(s)

1. License Number Survey
2. Sample Advertisements
3. Proposed Regulatory Language to Adopt CCR 135 (Presentment and Advertising Requirements)

Q2 What is your first reaction to the idea of requiring California architects to include their license number in any advertising, soliciting, or other presentments to the public?

Answered: 1,547 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very positive	37.62%	582
Positive	28.05%	434
Neutral	12.73%	197
Negative	14.09%	218
Very negative	7.50%	116
TOTAL		1,547



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CALIFORNIA ARCHITECTS BOARD
PROPOSED REGULATORY LANGUAGE

Article 5. Miscellaneous

Changes to the original language are shown in single underline for new text and single for deleted text.

Adopt Section 135 of Article 5 of Division 2 of Title 16 of the California Code of Regulations as follows:

§135. Presentment and Advertising Requirements.

(a) An architect shall include their name and license number in all forms of advertisement solicitation, or other presentments to the public in connection with the rendition of architectural services for which a license is required by the Architects Practice Act, including, but not limited to, any advertisement, card, letterhead, telephone listing, Internet Web site, written solicitation to a prospective client or clients, or contract proposal.

(b) For purposes of a business entity that contains or employs two or more architects, the requirements of subsection (a) shall be deemed satisfied as to such business entity if the advertisements, solicitations, or presentments to the public include the name and license number of at least one architect who is (1) in management control of the business entity and (2) either the owner, a part-owner, an officer, or an employee of the business entity. Advertisements for individual architects within a business entity may use the license number of the individual architect at the business entity.

Note: Authority cited: Section 5526, Business and Professions Code. Reference: Section 137, Business and Professions Code.

**AGENDA ITEM G: DISCUSS AND POSSIBLE ACTION ON PROPOSED
AMENDMENTS TO REGULATIONS**

G.1. CCR, Title 16, Division 2, Article 8, Section 152, Citations

G.2. CCR, Title 16, Division 2, Article 9, Section 160, Rules of Professional Conduct

AGENDA ITEM G.1: CCR, TITLE 16, DIVISION 2, ARTICLE 8, SECTION 152, CITATIONS

Summary

Title 16, CCR section 152 (Citations) authorizes the California Architects Board's Executive Officer (EO) to issue citations containing orders of abatement and/or administrative fines pursuant to BPC sections 125.9 or 148 against an architect or an unlicensed person for violations of the Architects Practice Act (Act) or Board regulations.

Staff requests the Regulatory and Enforcement Committee (REC), and ultimately the Board, consider amendments to CCR section 152(c)(1) that would allow the Board to issue citations to unlicensed individuals who are in violation of the following sections:

- BPC section 5536.1 Signature and Stamp on Plans and Documents; Unauthorized Practice; Misdemeanor;
- BPC section 5536.4 Instruments of Service—Consent,
- BPC section 5536.5 State of Emergency; Practice Without License or Holding Self Out as Architect; Penalty, and
- CCR section 134 Use of the Term Architect; Responsible Control within Business Entity.

The Board has received several complaints that it is unable to enforce because the current regulatory language does not allow the Board to issue citations for the above-mentioned violations.

Staff worked with legal counsel to prepare the proposed regulatory language to amend CCR section 152, specifically subsection (c)(1) (see Attachment 1) to include the above-referenced revisions.

Action Requested

The REC is asked to review and discuss the proposed regulation to amend CCR section 152, and consider recommending to the Board that it approve the regulation and delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed.

Attachment(s)

Proposed Regulatory Language to Amend California Code of Regulations, Title 16, Division 2, Article 8, Section 152 Citations

CALIFORNIA ARCHITECTS BOARD
PROPOSED REGULATORY LANGUAGE
ARTICLE 8. Disciplinary Proceedings

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Amend Section 152 of Article 8 of Division 2 of Title 16 of the California Code of Regulations as follows:

§ 152. Citations.

(a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to sections 125.9 or 148 of the code against an architect or an unlicensed person who has committed any acts or omissions which are in violation of the Architects Practice Act or any regulation adopted pursuant thereto.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

- (1) Class "A" violations are violations which the executive officer has determined involve an unlicensed person who has violated Business and Professions Code sections 5536, 5536.1, 5536.4, and 5536.5, and California Code of Regulations section 134, including but not limited to, acting in the capacity of or engaged in the practice of architecture. A class "A" violation is subject to an administrative fine in an amount not less than seven hundred and fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.
- (2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public or a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(3) Class "C" violations are violations which the executive officer has determined involve a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class "C" violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for each and every violation.

(d) In assessing the amount of an administrative fine, the executive officer shall consider the following criteria:

- (1) The good or bad faith exhibited by the cited person.
- (2) The nature and severity of the violation.
- (3) Evidence that the violation was willful.
- (4) History of violations of the same or similar nature.
- (5) The extent to which the cited person has cooperated with the board's investigation.
- (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (7) Such other matters as justice may require.

(e) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

- (1) The citation involves a violation that has an immediate relationship to the health and safety of another person.
- (2) The cited person has a history of two or more prior citations of the same or similar violations.
- (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
- (4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

(f) The sanction authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

Note: Authority cited: Sections 125.9 and 5526, Business and Professions Code.
Reference: Sections 125.9, 148, 149, 5510.1 and 5560, Business and Professions Code.

AGENDA ITEM G.2: CCR, TITLE 16, DIVISION 2, ARTICLE 9, SECTION 160, RULES OF PROFESSIONAL CONDUCT

Summary

Title 16, CCR section 160 (Rules of Professional Conduct) provides that a violation of any rule of professional conduct in the practice of architecture constitutes a ground for disciplinary action.

Staff requests the Regulatory and Enforcement Committee (REC), and ultimately the Board, consider amendments to CCR section 160 that would clearly define negligence and willful misconduct. The current language has led to some confusion because it does not define the standard of care. The proposed changes to the language would provide clarification by reorganizing the language.

Staff also suggests the REC consider additional revisions to CCR section 160, including:

- Change the heading of (a) from “Competence” to “Standard of Care”;
- Reorganize the existing language from (b)(1) and move it to (a)(2);
- Add the text, “Willful misconduct is intended to address intentional wrongful or improper acts.” to Standard of Care (a)(2);
- Add the heading “Competence” to (b) to address negligence;
- Add the text, “A failure to fulfill the duty of care is negligence. A breach of the duty of care is determined by reference to whether the individual departed from standard practice, the custom of the profession, or a statute which establishes a particular standard.” to (b)(1);
- Remove the heading “Willful Misconduct” which is a violation and not an action; and
- Add the heading “(c) Timely Response to Board” to address the existing language in Willful Misconduct (b)(2).

Staff worked with legal counsel to prepare the proposed regulatory language to amend CCR section 160 (see Attachment 1) to include the above-referenced revisions.

Action Requested

The REC is asked to review and discuss the proposed regulation to amend CCR section 160, and consider recommending to the Board that it approve the regulation and delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed.

Attachment(s)

Proposed Regulatory Language to Amend California Code of Regulations, Title 16, Division 2,
Article 9, Section 160 Rules of Professional Conduct

CALIFORNIA ARCHITECTS BOARD
PROPOSED REGULATORY LANGUAGE
ARTICLE 9. Professional Conduct

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Amend Section 160 of Article 9 of Division 2 of Title 16 of the California Code of Regulations as follows:

§ 160. Rules of Professional Conduct.

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:

(a) ~~Competence~~ Standard of Care:

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

(2) 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. Willful misconduct is intended to address intentional wrongful or improper acts.

(b) Competence:

(1) ~~In addition to subsection (a)(1) above, w~~When practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in this state under similar circumstances and conditions. A failure to fulfill the duty of care is negligence. A breach of the duty of care is determined by reference to whether the individual departed from standard practice, the custom of the profession, or a statute which establishes a particular standard.

(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.~~

(c) Timely Response to Board:

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

(de) Conflict of Interest:

(1) An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all such parties.

(2) If an architect has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the architect shall either terminate such association or interest or offer to give up the project or employment.

(3) An architect shall not solicit or accept payments, rebates, refunds, or commissions whether in the form of money or otherwise from material or equipment suppliers in return for specifying their products to a client of the architect.

(4) An architect shall not engage in a business or activity outside his or her capacity as an officer, employee, appointee, or agent of a governmental agency knowing that the business or activity may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the architect.

(5) When acting as the interpreter of construction contract documents and the judge of construction contract performance, an architect shall endeavor to secure faithful performance of all parties to the construction contract and shall not show partiality to any party.

(ed) Full Disclosure:

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

(2) An architect shall respond in writing within 30 days to any request from the Board for information solicited in connection with a candidate's application for a license to practice architecture. When providing information in connection with a candidate's application for a license to practice architecture, an architect shall accurately report the candidate's training or experience for the period of time that the architect had direct supervision of the candidate.

| (fe) Copyright Infringement:

(1) An architect shall not have been found by a court to have infringed upon the copyrighted works of other architects or design professionals.

| (gf) Informed Consent:

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

Note: Authority cited: Section 5526, Business and Professions Code. Reference: Sections 5526 and 5578, Business and Professions Code.

AGENDA ITEM H: UPDATE ON THE SECRETARY OF STATE REQUIREMENTS FOR NAMING PROFESSIONAL AND GENERAL STOCK CORPORATIONS

Summary

In order for architects to form a corporate business entity in California, they must register the name of that entity with the office of the Secretary of State (SoS). Once that entity is registered, every licensee within the firm must submit a Business Entity Report Form (BERF) indicating the business entity through which they are performing architectural services.

It has been brought to the attention of the Board that the SoS is not approving certain architectural firm names. Architects are able to form either a Professional Corporation (PC) or a General Stock Corporation. Professional Corporations have always needed to comply with the naming restrictions described in Business and Professions Code section 5610.3 (see attachment). General Stock Corporations have never had naming restrictions imposed by the Architects Practice Act.

As the Board does not have jurisdiction over corporate names, the Board contacted SoS for guidance. The SoS indicated that they reject names that are likely to mislead the public in thinking the corporation is a professional corporation. Therefore, the use of words such as "Architect," "Architecture," etc. in names will likely not be accepted.

Staff will provide an update at the meeting.

Action Requested

None

Attachment(s)

Business and Professions Code Section 5610.3

**BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 3, ARTICLE 7,
SECTION 5610.3 NAME; RESTRICTIONS**

Section 5610.3

The name of a professional architectural corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words "architectural corporation" or (2) the word "architect" or "architects" and wording or abbreviations denoting corporate existence.

(Amended by Stats. 1991, Ch. 566, Sec. 15.)

AGENDA ITEM I: ADJOURNMENT

Time: _____