

3. During the entire period from its registration on February 9, 1993 with the New Jersey State Department of Treasury as a New Jersey Domestic Profit Corporation through the present, Amelchenko Design, Inc. has never completed an application for nor possessed the requisite Certificate of Authorization issued by this Board to enable a corporation to practice architecture in New Jersey.

4. On August 5, 1995 the Department of Treasury revoked the corporation's Certificate of Incorporation for failure to pay annual report fees. The corporation has never been reinstated by the Department of Treasury.

5. On August 21, 1996 the Board filed a Uniform Penalty Letter ("UPL") assessing penalties against respondent for violations including: failing to inform his clients of a potential conflict of interest by performing as an architect and a construction supervisor of his own plans; failing to inform his clients of construction flaws and correcting them; and contracting as Amelchenko Design, Inc. despite failing to obtain the mandatory Certificate of Authorization from the Board. He acknowledged these violations by signing the UPL and paying a penalty of \$1,500.

6. Notwithstanding these violations and the clear notice that he had as to the unlawfulness of his conduct, Amelchenko Design, Inc. continued to contract to provide architectural services to clients.

7. More specifically, on or about October 22, 1997, respondent, through Amelchenko Design, Inc., entered into a contract for architectural services, relating to design and construction of 2-1/2 story residence with Charles and Rebecca Krikorian, 117 17th Avenue, Belmar, NJ 07719. Notwithstanding having served as the architect on the project, respondent bid on and was awarded the construction contract, through Paul G. Amelchenko, Inc. The contract was executed on or about June 19, 1998.

8. In addition, respondent offered to provide architectural services to Angelo and Diane Paris, 1303 Charles Street, Point Pleasant, NJ 08742, in a proposed contract, dated August 12, 1997. Indeed, respondent accepted partial payment. The homeowners did not sign the proposed contract and stopped work on the project.

9. At a Board investigative inquiry of May 11, 2000, respondent testified falsely that he had obtained from the Board the requisite Certificate of Authorization for Amelchenko Design, Inc., to provide architectural services in New Jersey. From that date to the present, he has never qualified for the Certificate.

CONCLUSIONS OF LAW

1. In his contractual relationships with the Krikorians, respondent placed himself in a position where he could not provide his professional services "independently", in a manner which would safeguard the exercise of unprejudiced judgment. As such,

respondent has engaged in a conflict of interest in violation of N.J.A.C.13:27-5.3. This conduct represents a second offense.

2. With respect to both the Kirkorian project and the Paris project, respondent offered or provided--and accepted compensation for--the performance of architectural services through a business entity in which he was a principal which failed to possess the required Certificate of Authorization to practice architecture as a corporation in New Jersey. This conduct constitutes a violation of N.J.S.A.45:3-18(a) and represents a second offense.

3. Respondent testified untruthfully, in violation of N.J.S.A.45:1-21(b), at the May 2000 investigative inquiry as to his firm's possession of a Certificate of Authorization to practice architecture.

DISCUSSION

Based on preliminary findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice in the State of New Jersey was entered on May 10, 2001 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and

all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The Board reviewed the submissions of respondent in response to the May 10, 2001 Provisional Order of Discipline, and the state's reply, on November 8, 2001. The Board noted conflicting claims of the parties, including whether respondent testified falsely in 1996 and in 2000 at investigative inquiries, regarding whether he had obtained from the Board a Certificate of Authorization to provide architectural services in New Jersey through Amelchenko Design, Inc. Therefore the Board requested the parties to submit documentation, including transcript references, of the claims contained in their submissions.

At its meeting of January 10, 2002, the Board considered all of the submissions of the parties.* The Board determined that further proceedings were not necessary as any discrepancies raised could be resolved by reference to the transcripts and documentation submitted, with modifications made to the findings and conclusions as necessary.**

* See attached list of the documents comprising the record in this matter.

** Based on the Board's review of all of the documents, the Final Order has been modified as follows:

-As to Findings of Fact, regarding the 1996 Uniform Penalty Letter, paragraph 5 on page 2 has been modified to eliminate the words "and failing to testify truthfully as to the non-existence of a Certificate of Authorization."

-As to the findings regarding whether Amelchenko Design, Inc. obtained a Certificate of Authorization from the Board, the

Thus the Board determined that respondent testified falsely only in May, 2000 that he had obtained a Certificate of Authorization from the Board for Amelchenko Design, Inc. to practice architecture (May 11, 2000 transcript at pp. 9-10; and certification of Executive Director Hsu). This Final Order modifies all findings as to respondent's 1996 testimony, as the 1996 transcript indicates he admitted he did not even know about the requirement of a Certificate of Authority at that time (April 1996 transcript at p.9). The findings are also modified to state that respondent never qualified for the Certificate of Authorization, and he apparently belatedly filed an incomplete application, (Mr. Amelchenko has not denied in his submissions that he could not qualify for such authorization since his Certificate of Incorporation has been revoked by the State of New Jersey since 1995), and to eliminate the finding in paragraph 8 that respondent

(Footnote ** continued)

term "has never applied for..." in paragraph 3 on page 2 has been modified to read "has never completed an application for...."

- As to the findings regarding an offer to provide architectural services to Angelo and Diane Paris, paragraph 8 on page 3 has been modified to eliminate the phrase "but failed to produce plans in a timely fashion."

- As to the findings regarding respondent's testimony at investigative inquiries, paragraph 9 on page 3 has been modified to eliminate all references to the April 25, 1996 investigative inquiry.

- Other modifications are being made to the Order including but not limited to grammatical changes, to ensure consistency with the modifications above.

failed to produce timely plans, in the Paris matter, as the documentation which was submitted fails to substantiate that finding.

In considering modification of the discipline imposed, the Board has taken into account the changes made to the findings in this matter based upon the documents submitted and respondent's personal circumstances as described in his submissions, and has also considered that he has shown contempt for the Board and the requirements of the law governing the practice of architecture by failing to change his business practices. He failed to make the necessary changes to qualify for a Certificate of Authorization for Amelchenko Design, Inc. after clear notice of the necessity to do so by the Board including information provided to him at the 1996 and 2000 investigative inquiries. Indeed, one of his latest submissions (of 11/7/01) indicates that he has continued to represent himself as Amelchenko Design, Inc. after notice of the current charges, without qualifying for or obtaining a Certificate of Authorization.

Further, Mr. Amelchenko has engaged in repeated clear conflicts of interest by acting as both the architect planning a project, and then inspecting and supervising the building of his own designs. He previously claimed that the Board directed that he could do so long as he informed his clients that when he was acting as a contractor, he was not acting as an architect. However, in

respondent's submission of December 27, 2001, he admits that it was his own attorney that made this suggestion, not the Board (see also 4/25/96 transcript at pp. 59 & 60).

Finally, respondent does not take responsibility for failing to obtain the Certificate of Authority and attempts to blame his employee. It is his responsibility to ensure he has the necessary authorization to practice, which serves to protect consumers, and he has continued to fail to comply more than five years after being informed of the requirement at the 1996 investigative inquiry.

Thus, although we have substantially reduced the period of active suspension as set forth in the Provisional Order of Discipline, based on modified findings and respondent's personal circumstances, respondent's continued pattern of ignoring professional requirements fully justifies the discipline and monetary penalties imposed herein.

ACCORDINGLY, IT IS ON THIS 30th DAY OF JANUARY, 2002

ORDERED THAT:

1. Respondent's license to practice architecture shall be suspended for a period of two years, the first year active, (beginning 10 days from filing this Order), the second year stayed. At the end of the year of active suspension, respondent may petition the Board for reactivation of the license. He may not lawfully engage in the profession during the one year period of active suspension and until he complies with paragraph 2 below.

2. Prior to resuming active practice in New Jersey, respondent shall be required to appear before the Board to demonstrate his fitness to resume practice. Any practice in this State prior to formal reinstatement of license by the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

3. Pursuant to N.J.S.A.45:1-25, respondent shall be assessed an aggregate civil penalty totaling \$12,500 representing second offense penalties, for the violations found herein (\$5,000 for engaging in a conflict of interest in violation of N.J.A.C.13:27-5.3(a); \$5,000 for failing to obtain the required Certificate of Authorization to practice architecture as a corporation in New Jersey in violation of N.J.S.A.45:3-18(a); and \$2,500 for testifying untruthfully, in violation of N.J.S.A.45:1-21(b), at the May, 2000 investigative inquiry as to his firm's possession of a Certificate Of Authorization).

4. Additionally, respondent shall be assessed costs of transcription totaling \$1065.00.

5. Subsequent violations will subject respondent to enhanced penalties of not more than \$20,000 per offense, pursuant to N.J.S.A.45:1-25.

6. Payment shall be sent in the form of a certified check (or money order payable to the Treasurer, State of New Jersey), to

James S. Hsu, Executive Director, New Jersey State Board of Architects, P.O. Box 45001, 124 Halsey Street, Newark, New Jersey 07101. Arrangements may be made for payment in monthly installments to be completed within two years of the filing of this order. Failure to pay any installment will result in the entire debt becoming due and owing and a Certificate of Debt will be filed with the Clerk of the Superior Court.

NEW JERSEY STATE BOARD OF ARCHITECTS

By: Frederick Kniesler, Jr.
Frederick Kniesler, Jr.,
President

SUBMISSIONS AND OTHER DOCUMENTS COMPRISING THE RECORD

Provisional Order of Discipline (POD) - 5/10/01

Response to POD by Michael Wilbert Esq., June 6, 2001
with Exhibit A - contract with Krikorian; Exhibit B - letter of Mr.
Amelchenko, February 25, 2001; Exhibit C - blueprints and documents
from Paris file; Exhibit D - Krikorian schedule of forms and work;
Exhibits E & F - arbitration documents - Krikorian

Letter of the Attorney General, October 24, 2001

Letter of the Attorney General, January 7, 2002, with certification
of James Hsu, of December 4, 2001

✓ Transcript I/M/O the Investigative Inquiry of Paul Amelchenko,
April 25, 1996

Transcript In Re: Paul G. Amelchenko, May 11, 2000

Uniform Penalty Letter Re: I/M/O Amelchenko - August 21, 1996

Letter of Michael Wilbert, Esq., November 5, 2001

Letter of Michael Wilbert, Esq., December 3, 2001

Letter of Michael Wilbert, Esq., December 27, 2001

Letter of Paul Amelchenko, November 7, 2001

Letter of Paul Amelchenko, January 9, 2002 - attached article from
"Jersey Sports News" - October 23, 2001, and letter of Edward and
Marianne Coughlin, January 6, 2002.