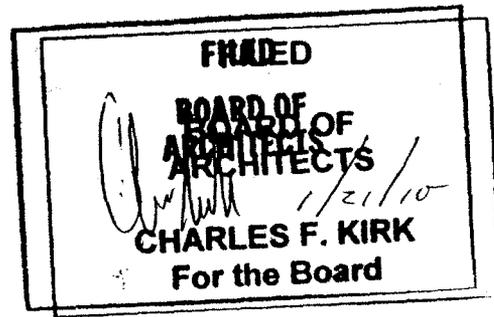


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CERTIFIED TRUE COPY

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF ARCHITECTS

IN THE MATTER OF \_\_\_\_\_ :  
 :  
 : Administrative Action  
 :  
 ROBERT J. BIVIANO, RA :  
 License No. 21AI009585 :  
 :  
 : CONSENT ORDER  
 :  
 TO PRACTICE ARCHITECTURE :  
 IN THE STATE OF NEW JERSEY :  
 \_\_\_\_\_ :

**THIS MATTER** was opened to the New Jersey State Board of Architects ("Board") upon receipt of information that Robert J. Biviano, RA ("Respondent") prepared deficient architectural plans in connection with a residential project for Magaly Ugarte ("Ugarte"). A Complaint in this matter was filed on or about April 15, 2009.

More specifically, the Respondent and Rolando Quintana ("Quintana"), an unlicensed individual, worked together on

approximately 140 architectural projects, one of which was a residential project for Ugarte.

The Board's investigation reveals that Respondent never met or spoke with Ugarte. Rather, Respondent's role was limited to the signing and sealing of the architectural plans. Instead, it was Quintana who handled all aspects of the relationship with Ugarte which included, but was not limited to: securing Ugarte as a client; meeting with Ugarte and communicating with her during the project; investigation and determination of the scope of design services to be performed; handling of all financial aspects, including preparation of a handwritten note on fees and acceptance of a check in the amount of \$1,500.00 made payable to "Rolando Quintana"; and drafting of the architectural plans.

Evidence and testimony further reveal that Respondent did not clearly inform Ugarte that he was the architect of record and in responsible charge of the project. Ugarte has no contact with Respondent. Rather, Respondent's participation in this architectural project was limited to the final review, signing and sealing of the plans.

A review of the plans reveal that there were numerous architectural details which were missing. Accordingly, the Board finds that there were deficiencies with the architectural plans which resulted in Ugarte being unable to secure a building permit.

Finally, the record evidences that Respondent does not maintain accurate records which reflect the scope of services to be rendered, the amounts paid to Quintana, and the amounts paid by Quintana to Respondent in connection with the projects. Further, Respondent testified that his relationship with Ugarte was consistent with his relationship in connection with the other projects on which he worked with Quintana.

~~As a result of the foregoing, the Board has determined that~~  
Respondent's acts constitute violations of:

1. N.J.S.A. 45:1-21(d) and N.J.A.C. 13:27-5.1(a) in that Respondent failed to act with reasonable care and competence and apply the technical knowledge and skill which are ordinarily applied by architects of good standing practicing in the same locality. Additionally, Respondent's acts constitute repeated acts of negligence and incompetence.

2. N.J.S.A. 45:3-1.1 and N.J.A.C. 13:27-5.5 in that Respondent failed to render regular and effective supervision in connection with this project.

**IT NOW APPEARING** that the parties wish to resolve this matter without recourse to formal proceedings; and that the Respondent hereby waives any right to a hearing in this matter; and the Board finding the within Order adequately protects the public's health, safety and welfare; and for good cause shown;

IT IS ON THIS 21<sup>st</sup> day of JANUARY, 2010, ORDERED AND AGREED as follows:

1. Respondent shall immediately surrender his license to practice architecture in the State of New Jersey;

2. Respondent shall pay a civil penalty of Five Thousand Dollars (\$5,000.00) in connection with his violation of N.J.S.A. 45:1-21(d) and N.J.A.C. 13:27-5.1(a);

3. Respondent shall pay a civil penalty of Five Thousand Dollars (\$5,000.00) in connection with his violation of N.J.S.A. 45:3-1.1 and N.J.A.C. 13:27-5.5;

4. Payment of the total civil penalty of \$10,000.00 mentioned in Paragraph 2 and 3 shall be stayed pending Respondent's application for a reinstatement of his license.

5. Respondent shall immediately pay investigative costs of One Thousand Three Dollars and 50/100 (\$1,003.50). Payment of said costs shall be made by certified check or money order payable to the "State of New Jersey" and forwarded to James Hsu, Executive Director, New Jersey State Board of Architects, 124 Halsey Street, 3<sup>rd</sup> Floor, Newark, New Jersey 07102; and

6. Respondent shall immediately pay restitution in the amount of One Thousand Five Hundred Dollars (\$1,500.00) to be made payable to "Magaly Ugarte" and forwarded to James Hsu, Executive Director, New Jersey State Board of Architects, 124 Halsey Street, 3<sup>rd</sup> Floor, Newark, New Jersey 07102.

7. Failure to remit any payment as required by this Order will result in the filing of a Certificate of Debt.

NEW JERSEY STATE BOARD OF ARCHITECTS

By:

Deane Gots  
Deane Gots, C.I.D.,  
Board President

I have read and I understand this Consent Order and agree to be bound by its terms. I further hereby consent to the entry of this Consent Order.

Robert J. Biviano  
ROBERT J. BIVIANO, RA

I agree to the form and entry of this Consent Order.

PEARSON & SHAPIRO

Fredric H. Pearson  
FREDRIC H. PEARSON, ESQUIRE  
Attorney for Respondent