

IN THE MATTER OF * BEFORE THE
DIANNA REED-FRIMPONG * STATE BOARD OF
* ARCHITECTS
* Case No. 11-AR-09
* * * * *

MEMORANDUM AND ORDER

The State Board of Architects (the "Board") heard this case on February 27, 2013, in Baltimore, Maryland. The original hearing date of January 23, 2013, was established in a Notice of Charges and Order for Hearing dated December 14, 2012, which was sent to Ms. Dianna Reed-Frimpong (the "Respondent") by regular and certified mail, return receipt requested (the "Notice of Charges"). Due to a scheduling conflict, the hearing was re-scheduled from the original date of January 23, 2013, to February 27, 2013. The letter advising the Respondent of the change in the hearing date was sent to the Respondent also by regular and certified mail, return receipt requested.

The Notice of Charges ordered the Respondent to appear before the Board and respond to the charges brought against her by the Board. During the hearing on the charges, Kris King, Assistant Attorney General, appeared on behalf of the State of Maryland and presented evidence against the Respondent, including the testimony of the complainant and

witnesses. The Respondent did not appear at the hearing. Pursuant to the Code of Maryland Regulations 09.01.02.09, the hearing was held without the Respondent being present. Milena Trust, Assistant Attorney General, served as counsel to the Board. The proceedings were electronically recorded.

The Board charged the Respondent with violations of the following Sections of Business Occupations and Professions Article, Annotated Code of Maryland:

Section 3-601. Practicing without license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice architecture in the State unless licensed by the Board.

Section 3-602. Providing services without permit.

Except for a licensed architect who operates a business as a sole practitioner, a person may not operate a business through which architecture is practiced, unless:

- (1) the business is a corporation or a partnership; and
- (2) the corporation or partnership holds a permit issued by the Board.

Section 3-603. Misrepresentation as authorized practitioner.

Unless authorized under this title to practice architecture, a person may not represent to the public, by use of a title, including "architect", "licensed architect", or "registered architect", by description of services, methods, or procedures, or

otherwise, that the person is authorized to practice architecture in the State.

Section 3-604. Misrepresentation that business may provide services.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by the use of the titles "architects", "licensed architects", or "registered architects", by the use of the term "architecture", by description of services, methods, or procedures, or otherwise that the person holds a permit or otherwise is authorized to operate a business through which architecture is practiced in the State.

(b) Subsection (a) of this section does not apply to a licensed architect who operates the business as the sole practitioner.

The following documents were introduced by the State of Maryland and received into evidence:

1. Exhibit No. 1 - Letter dated January 4, 2013, from Pamela J. Edwards, Executive Director, to the Respondent advising her of the change in the hearing date.
2. Exhibit No. 2 - Statement of Charges and Order for Hearing dated December 14, 2012 (the "Charge Letter").
3. Exhibit No. 3 - Record of the Real Property Data Search extracted from the official website of the Maryland Department of Assessments and Taxation confirming the

Respondent's mailing address as "428 Legato Terrace, Silver Spring, MD 20901-5052."

4. Exhibit No. 4 - Letter from Pamela J. Edwards, Executive Director, regarding the Respondent's licensing status with the State Board of Architects (the "Board")
5. Exhibit No. 5 - Notarized Complaint dated December 26, 2010, filed by Mr. David Esaw, together with attachments thereto.
6. Exhibit 6 - An extract from Dianne Reed's Profile on LinkedIn website.

The State of Maryland presented the testimony of the following individuals:

1. Mr. Michael Miller, Assistant Executive Director, State Board of Architects.
2. Mr. David Esaw, the Complainant.

The Board has carefully considered all the evidence presented, including both the testimony of witnesses and the documentary evidence submitted at the hearing. Based on the evidence presented, and considering the demeanor and credibility of the witnesses, the Board makes the following Findings of Fact:

FINDINGS OF FACT

1. The Charge Letter was sent to the Respondent by, among other methods, certified mail; however, it came back unclaimed. Mr. Miller testified that when the Board's office did not receive a confirmation from the Respondent of the receipt of the Charge Letter, an investigator assigned to the Board personally delivered the Charge Letter to the Respondent's address on November 17, 2012. Mr. Miller further testified that the Respondent's address was verified both through the records of the Maryland Motor Vehicle Administration, and the Maryland Department of Assessments and Taxation, and both sources confirmed the Respondent's address to be the same as stated in the Charge Letter.
2. Mr. Miller testified that in his position as Assistant Executive Director, Maryland Design Boards, he is familiar with the administrative licensing and record - keeping processes. Based on the information he obtained as part of his regular employment duties, Mr. Miller confirmed that the Respondent never applied for a Maryland architectural license. In addition, there were no records of the firm "Land Use by Design, LLC"

ever applying for a required permit from the Board to offer architectural services.

3. The Complainant, Mr. David Esaw, also testified at the hearing. He and his wife (the "Esaws") met the Respondent at the neighbor's party at which time the Respondent indicated to the Esaws that she is a licensed Maryland architect. Subsequent to the encounter, the Respondent, at the Complainant's request, came over several times to the residence occupied at that time by the Esaws in order to discuss the scope and details of the renovation project the Esaws planned for the property they owned at 2501 Prospect Green Court, Michellville, Maryland.
4. The Esaws entered into a written contract dated April 28, 2010 (the "Contract") with the Respondent, and her company, Land Use by Design, LLC. Pursuant to the terms of the Contract, the Esaws hired the Respondent to prepare building plans and obtain requisite building permits on an expedited basis in connection with the house renovations and additions at the Prospect Green property.
5. The Esaws and the Respondent agreed that the total cost of services to be performed under the Contract is Twelve Thousand Dollars (\$12,000.00). As required by

the terms of the Contract, the Esaws paid the Respondent 1/2 of the total cost, i.e. \$6,000.00, via cashier's check made payable to Land Use by Design and dated May 4, 2010.

6. Between the beginning of May 2010, and mid-June 2010, the Respondent indicated to the Esaws that she has been working on the project and promised to have printed construction drawings to them for review and discussion by June 14, 2010. However, the drawings were not presented to the Esaws until June 16, 2010.
7. After the review of the drawings, the Esaws had comments that they related to the Respondent. On June 22, 2010, the Respondent provided the Esaws with a set of revised drawings. On June 24, 2010, the Respondent advised the Esaws that she would be submitting plans to the permitting agencies.
8. On June 25, 2010, the Respondent emailed the Esaws and provided them with the permit name and the permit number. Upon receipt of this information, the Esaws sent the Respondent a check in the amount of \$3,000, as agreed upon by the terms of the Contract between the Esaws and the Respondent.
9. After learning that the permit was supposedly issued, the Esaws asked for copies of final plans submitted to

the county so that their contractor could begin reviewing them. However, despite repeated requests, the Respondent did not reply to the Esaws, let alone supply them with a set of final plans, for at least 10 days.

10. Finally, on July 9, 2010, the Respondent sent an e-mail to the Esaws apologizing for the delay and promising to deduct \$500 from the remaining balance of the Contract. She also promised to drop off the final drawings.
11. However, the Esaws still did not receive the drawings, despite their repeated requests. On July 20, 2010 the Respondent advised the Esaws that the drawings are with the soil and erosion control reviewer. The subsequent email from the Respondent, dated July 28, 2010, stated that the plans needed certain changes required by the various county review offices.
12. The Esaws were not able to get in touch with the Respondent until the middle of August 2010, at which time the Respondent wrote a letter to them dated August 11, 2010, in which she admitted that she has not filed yet for the county permits nor has she "finished the final mark-up of the building permit

drawings for demolition and building permit submission". In the same letter the Respondent offered to return \$9000 paid to her by the Esaws and waive the remaining balance of the Contract.

13. The Complainant visited the Prince George's County permitting offices to check on the status of the permit allegedly issued for the project and learned that the permit does not exist.
14. In October, 2010 the Esaws filed the complaint with the Board which included, among other things, a copy of the Contract between the Esaws and the Respondent and her firm, Land Use by Design. In addition, the record contains an extract from LinkedIn (Exhibit No. 6) in which the Respondent advertises her alleged professional qualifications as well as those of Land Use by Design.
15. The Respondent never returned any of the money to the Esaws. In addition, the family had to find another architect for the project. The cost of the project was \$20,000, and the design professional that Esaws hired could not use any of the drawings prepared by the Respondent.

DISCUSSION

Title 3 of the Business Occupations and Professions Article, Annotated Code of Maryland, contains clear provisions as to the licensing requirements for persons providing architectural services. The licensing law has been enacted to protect the public from unauthorized practitioners and to ensure the public that architectural services are provided by competent individuals licensed by the State Board of Architects.

The facts are undisputed that the Respondent misrepresented her licensing status. She told the Esaws that she was an architect, leading them to believe that as a licensed design professional, she is competent to provide services they were interested in obtaining.

The facts are also undisputed that the Respondent is not and has never been licensed by the Board. In addition, her company, Land Use by Design, never sought or received a required permit from the Board.

Finally, the facts are undisputed that the Respondent lied to the Esaws about the permitting status of the project. Moreover, she pocketed Twelve Thousand Dollars from them despite her promises to return the money.

The Respondent's actions are fraught with deceit and misrepresentation. She totally misled unsuspecting private

individuals who had no reason not to trust her. In addition, the Esaws had to hire another design professional not to finish where the Respondent left off, but to do the project from the beginning to the end since the drawings prepared by her were of no or little value.

The Respondent claimed on her webpage that "Land Use by Design offers many services like . . . architectural services" which her company was not authorized to offer since they had no permit from the Board. In addition, she stated that she is "advertising [her] services as . . . [an] Architect," the title she is not allowed to use since she is not licensed as an architect.

The Respondent not only lied about her licensing status and her company's permit status, but she also did it intentionally. She manufactured the permit name and the permit number, and consciously misled the Esaws for a number of months into thinking that the project is moving forward as planned. Finally, she took a large sum of money from them without providing services she was hired to provide, and never returned any of them, despite her promises to the contrary.

Since the Respondent is not licensed by the Board, the Board can not revoke or suspend a license. However, the Respondent is subject to a civil penalty pursuant to

Section 3-605 (b) of the Business Occupations and Professions Article, Annotated Code of Maryland:

(b) (1) The Board may impose on a person who violates any provision of this title a civil penalty not exceeding \$5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

The Respondent committed several serious offenses.

She lied about her licensing status. She misrepresented that her company, Land Use by Design, is authorized to provide architectural services. She attempted to provide services that neither she nor her firm were licensed or authorized to provide. All these offenses were not only serious, but they were also intentional. The Respondent did not act in good faith. She knew or should have known what the law required, and simply chose to ignore those requirements.

The Board recognizes that the Respondent does not have a history of previous violations with the Board. However, the Board finds that this factor is clearly outweighed by the extent of the Respondent's deceitful actions and her complete absence of good faith.

Due to the seriousness of violations committed by the Respondent, and considering all the factors for the imposition of a civil statutory penalty, the Board concludes that a total penalty of Ten Thousand Dollars (\$10,000.00) should be assessed against the Respondent. Specifically, (1) a penalty of Two Thousand Five Hundred Dollars (\$2500) is imposed as a result of the Board's finding the Respondent guilty of violating Section 3-601 of the Business Occupations and Professions Article, Annotated Code of Maryland; (2) a penalty of Two Thousand Five Hundred Dollars is imposed as a result of the Board's finding the Respondent guilty of violating Section 3-602 of the Business Occupations and Professions Article, Annotated Code of Maryland; (3) a penalty of Two Thousand Five Hundred Dollars is imposed as a result of the Board's finding the Respondent guilty of violating Section 3-603 of the Business Occupations and Professions Article, Annotated Code of Maryland; and (4) a penalty of Two Thousand Five Hundred Dollars is imposed as a result of the Board's

finding the Respondent guilty of violating Section 3-604 of the Business Occupations and Professions Article, Annotated Code of Maryland.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, the Board concludes that the Respondent is guilty of violating the following provisions of Title 3, Business Occupations and Professions Article, Annotated Code of Maryland:

Section 3-601. Practicing without license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice architecture in the State unless licensed by the Board.

Section 3-602. Providing services without permit.

Except for a licensed architect who operates a business as a sole practitioner, a person may not operate a business through which architecture is practiced, unless:

- (3) the business is a corporation or a partnership; and
- (4) the corporation or partnership holds a permit issued by the Board.

Section 3-603. Misrepresentation as authorized practitioner.

Unless authorized under this title to practice architecture, a person may not represent to the public, by use of a title, including "architect", "licensed architect", or "registered architect", by description of services, methods, or procedures, or

otherwise, that the person is authorized to practice architecture in the State.

Section 3-604. Misrepresentation that business may provide services.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by the use of the titles "architects", "licensed architects", or "registered architects", by the use of the term "architecture", by description of services, methods, or procedures, or otherwise that the person holds a permit or otherwise is authorized to operate a business through which architecture is practiced in the State.

The Respondent's violations of these provisions subject him to sanctions of Section 3-605(b), Business Occupations and Professions Article, Annotated Code of Maryland.

ORDER

Accordingly, it is hereby ORDERED that:

1. The Respondent, Dianna Reed-Frimpong, is guilty of violating Business Occupations and Professions Article, Annotated Code of Maryland, Sections 3-601, 3-602, 3-603 and 3-604.
2. The Respondent be ASSESSED a civil statutory penalty in the amount of Ten Thousand Dollars (\$10,000.00), pursuant to Section 3-605, Business Occupations and Professions Article, Annotated Code of Maryland.

3. The Respondent shall pay the amount of this fine to the Board within sixty (60) days of the adoption of this Order.

4. The records of the Board shall reflect this Memorandum and Order.

SO ORDERED this 18th day of April, 2013, by the State Board of Architects.

BY: Diane Cho / pjc
Diane Cho, Chair