

SETTLEMENT AGREEMENT

Settlement Agreement entered into this the 16th day of February, 2007 by and between the North Carolina Board of Architecture ("Board of Architecture") and the Henderson County Board of Commissioners ("Board of Commissioners").

WHEREAS:

1. The North Carolina Board of Architecture, an independent agency of the State of North Carolina, is organized under the provisions of Chapter 83A of the General Statutes of North Carolina and is charged with such duties and exercises such powers as are provided therein.
2. Chapter 83A of the North Carolina General Statutes creates the Board of Architecture in order to, among other things, administer the statutes and rules of the Board of Architecture, including safeguarding the public life, health and property of individuals, including but not limited to preventing the prohibited practice of architecture.
3. The Board of Commissioners is the duly constituted governing body of Henderson County, North Carolina, and is subject to the requirements contained in N.C. Gen. Stat. § 133-1.1(a).
4. At a meeting of the Board of Commissioners on May 19, 2004, upon the recommendation of its then county manager, David E. Nicholson ("Nicholson"), the Board of Commissioners granted permission for Henderson County Historic Courthouse, Inc. to enter into a contract with one Mohsen Ghoreishi ("Ghoreishi") and his firm the Kohan Group, LLC ("Kohan") to provide programming, phasing, and consulting services for the design of the historic courthouse project. The decision was, in part, based upon erroneous statements made by the county manager to the effect that Ghoreishi and the Kohan Group were licensed architects.
5. Ghoreishi is not now and has never been a licensed architect in North Carolina or any other jurisdiction. Kohan Group is not now and has never been a registered architectural firm in North Carolina or any other jurisdiction.
6. On January 3, 2005, the Board of Commissioners agreed to retain Kohan to perform professional design services associated with the demolition of the old jail and the construction of a wall for the annex. The Board of Commissioners also resolved to exempt itself from the qualification based selection process described in N.C. Gen. Stat. § 133-1.1(a). The Board of Commissioners did so based upon Nicholson's erroneous representations that Ghoreishi and Kohan Group were licensed architects. The Board of Commissioners voted 3-2 to hire Kohan and exempt itself from the qualification based selection process.
7. Kohan entered into a purported contract with the county to "prepare construction/bid documents to demolish existing Henderson County Old Jail and renovate Existing Annex

Building” on March 1, 2005. The county contends that this “contract” did not receive pre-audit certification as required by N.C. Gen. Stat. §159-28(a) and was not an enforceable obligation of Henderson County. However, Kohan billed and received payment from Henderson County as stated below.

8. Kohan sent Henderson County invoices for “design development” work in connection with the Henderson County old jail demolition project, the existing annex restoration, and miscellaneous design work for the historic courthouse on the following dates in the following amounts:
 - a. February 24, 2005 - \$5,759.95.
 - b. March 1, 2005 - \$4,290.76.
 - c. April 4, 2005 - \$3,514.00.

These invoices were subsequently paid by Henderson County.

9. Kohan sent Henderson County invoices for “construction documents” for the historic courthouse project on the following dates in the following amounts:
 - a. May 11, 2005 - \$4,100.
 - b. June 1, 2005 - \$21,648.31.
 - c. July 5, 2005 - \$20,925.51.
 - d. July 29, 2005 - \$33,323.17.
 - e. August 26, 2005 - \$33,901.28.

These invoices were subsequently paid by Henderson County.

10. Kohan sent Henderson County invoices for “construction documents” prepared in connection with the old jail demolition project on the following dates in the following amounts:
 - a. July 29, 2005 - \$1,267.85.
 - b. August 26, 2005 - \$2,723.47.
 - c. September 30, 2005 - \$3,137.71.
 - d. March 31, 2006 - \$280.00.

These invoices were subsequently paid by Henderson County.

11. Kohan sent Henderson County invoices for “construction administration” in connection with the old jail demolition project on the following dates in the following amounts:
 - a. October 28, 2005 - \$1,453.56.
 - b. December 2, 2005 - \$2,711.11.
 - c. December 30, 2005 - \$3,095.41.

These invoices were subsequently paid by Henderson County.

12. Kohan sent Henderson County invoices for "construction documents" prepared in connection with the Henderson County historic courthouse audio/visual project on the following dates in the following amounts:

- a. August 26, 2005 - \$5,301.20.
- b. September 30, 2005 - \$19,018.64.
- c. October 28, 2005 - \$6,800.00.
- d. December 2, 2005 - \$3,628.12.
- e. December 30, 2005 - \$1,277.10.
- f. March 3, 2006 - \$840.00.
- g. May 1, 2006 - \$10,880.00.

These invoices were subsequently paid by Henderson County.

13. On April 29, 2005, Kohan Group provided a time line for the Henderson County historic courthouse rehabilitation and the construction of a new annex building. The time line stated that the goal was to "provide construction documents for the above project and make it available to the public for bid." It also stated that Kohan Group was "made up of the best [a]rchitects, [e]ngineers and [c]onsultants whom [sic] previously worked on this very project." Finally, the time line estimated that Kohan Group would prepare construction documents between July 1 and August 31, 2005.

14. Nicholson circulated a draft resolution among the Henderson County commissioners on May 2, 2005. The resolution said that it was in the best interests of the Henderson County taxpayers to retain Kohan to perform design services associated with the rehabilitation of the historic courthouse and the construction of a new annex. The resolution also purported to exempt the county from the qualification based selection process and authorized county staff to negotiate a contract for design services with Kohan Group. However, the Board of Commissioners agreed to defer action on this resolution after one Commissioner requested that the legal name of the architectural firm or the name of the architect be listed correctly prior to approval by the Board of Commissioners. The Commissioner stated that he wanted to make sure that the entity or person held a North Carolina license to practice architecture. Nicholson then distributed an amended resolution that read "by contract with the Kohan Group in association with Antoine Architects, LLC, a licensed North Carolina Architectural Firm." The Board of Commissioners approved the amended resolution.

15. Antoine Architects, LLC was not licensed to practice architecture in North Carolina on May 2, 2005 and it did not become a registered architectural firm in North Carolina until June 29, 2005, at which time it was approved to do business in North Carolina as "Antoine Architects, PLLC" in as much as it is illegal for an architectural firm to do business in North Carolina as an LLC.

16. On May 18, 2005, the Board of Commissioners was informed that neither Ghoreishi nor Kohan Group was licensed to practice architecture.
17. A drawing of the rear elevation of the historic courthouse dated July 5, 2005 bears the signature and copyright of Kohan Group.
18. A drawing of the west elevation of the historic courthouse dated July 15, 2005 bears the signature and copyright of Kohan Group.
19. On August 15, 2005, Henderson County and Antoine Architects, PLLC entered into a contract for architectural services for the rehabilitation of the historic courthouse. The contract nevertheless listed Ghoreishi as Antoine's designated representative and stated that Ghoreishi was retained as a consultant for historic preservation, planning, and drafting.
20. Floor plans for the first and third floors of the historic courthouse dated August 18, 2005 show Kohan Group as the copyright holder of the plans and include Kohan Group's name on the title block.
21. Plans entitled "Historic Courthouse Rehabilitation – Option A" and "Historic Courthouse Rehabilitation – Option B" and dated September 6, 2005 show Kohan Group as the copyright holder and include Kohan Group's name on the title block.
22. Floor plans for the second floor and ground level of the historic courthouse dated September 23, 2005 show Kohan Group as the copyright holder and include Kohan Group's name on the title block.
23. Both volumes of the specifications dated March 23, 2006 and sent out to general contractors in the bidding process bear the Kohan Group trademark.
24. The set of drawings dated March 23, 2006 and sent out to general contractors in the bidding process also bear the Kohan Group trademark.
25. The Board of Architecture finds that by hiring Kohan Group and Ghoreishi to perform architectural services without investigating their credentials and without following the qualification based selection process, the Board of Commissioners aided and abetted Kohan and Ghoreishi in the unauthorized practice of architecture in violation of N.C. Gen. Stat. §§ 83A-12, 83A-16. Henderson County and its Board of Commissioners dispute this finding.
26. The Board of Architecture finds that by hiring Kohan Group and Ghoreishi to perform architectural services in connection with a non-exempt project on which public funds were spent without investigating their credentials and without following the qualification based selection process, the Board of Commissioners may have violated N.C. Gen. Stat. § 133-1.1(a) which reads as follows:

[i]n the interest of public health, safety and economy, every officer, board, department, or commission charged with the duty of approving plans and specifications or awarding or entering into contracts involving the expenditure of public funds in excess of . . . [o]ne hundred thirty-five thousand dollars (\$135,000) for the repair of public buildings where such repair includes major structural change in framing or foundation support systems . . . shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83A of the General Statutes.

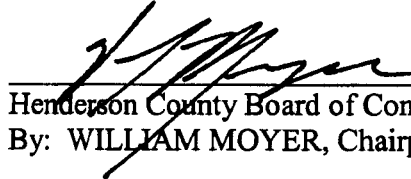
Henderson County and its Board of Commissioners dispute this finding.

27. The Board of Architecture finds that by hiring Antoine Architects to perform architectural services before Antoine Architects, PLLC was registered as an architectural firm in North Carolina without investigating the firm's credentials and without following the qualification based selection process, the county appears to have facilitated Antoine Architects' violation of N.C. Gen. Stat. § 83A-8. Henderson County disputes this finding, in that the principal of Antoine Architects was licensed as an architect in North Carolina, and it was the intent of Henderson County and its Board of Commissioners to contract with such principal.

WHEREFORE AND IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, AND IN LIEU OF FURTHER PROCEEDINGS, THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

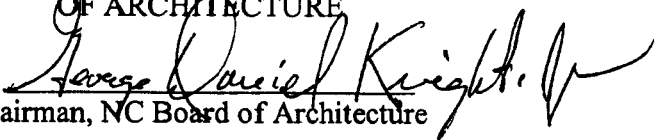
1. The Board of Commissioners denies willfully violating any North Carolina statute and neither admits nor denies the Board of Architecture's findings.
2. The Board of Commissioners agrees that it cannot and will not contract with any unlicensed individual or entity for the performance of architectural services in connection with a non-exempt project.
3. The Board of Architecture shall not take further action against the Board of Commissioners as long as the Board of Commissioners complies with its obligations under this Settlement Agreement.
4. Notwithstanding any contention or currently unasserted defense, the Board of Commissioners stipulates that this agreement is made in order to resolve a pending dispute and that both parties to this agreement have standing to resolve said dispute in this manner. Except with regard to the binding effect and enforcement of this agreement, no waiver of any contention or defense by either party is made in the event that further action is deemed necessary by the Board of Architecture.

The parties have affixed their signatures below and their signatures are evidence of their intent to be bound by this Settlement Agreement.

 2/16/07
Henderson County Board of Commissioners DATE
By: WILLIAM MOYER, Chairperson

APPROVED BY THE BOARD THIS THE 16th DAY OF FEBRUARY, 2007.

THE NORTH CAROLINA BOARD
OF ARCHITECTURE

By 
Chairman, NC Board of Architecture