

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF ARCHITECTURE
CASE # 649

IN THE MATTER OF:)

Carmelito Cataylo,)

Respondent.)

CONSENT ORDER

THIS CAUSE, coming before the North Carolina Board of Architecture at its offices at 127 W. Hargett Street, Suite 304, Raleigh, Wake County, North Carolina, with a quorum present. The Board and Respondents agreed to entry of the following CONSENT ORDER.

FINDINGS OF FACT

1. The North Carolina Board of Architecture, an independent quasi-judicial 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 in order to, among other things, administer the statutes and rules of the Board, including safeguarding the public life, health and property of individuals, including but not limited to preventing the prohibited practice of architecture.
3. At all times relevant to this proceeding, respondent Carmelito Cataylo ("Cataylo") was a licensed North Carolina architect who listed his address on his renewal application with the Board as 12913 Creedmoor Road, Wake Forest, North Carolina.
4. For a time relevant to this proceeding, Cataylo was associated with one John Bell ("Bell"), a citizen and resident of Wake County, North Carolina.
5. Cataylo and Bell were affiliated with Architectural Designs Unlimited, Inc. ("ADU"), a Florida corporation with its principal place of business in Wake Forest, North Carolina.
6. ADU did not register as a corporation with the North Carolina Secretary of State.
7. Bell does not now hold, nor has he ever held, a license issued by the Board, and, upon information and belief, he has never been licensed by any jurisdiction's Architecture Board.

8. ADU never held a certificate of registration issued by the Board to practice architecture.
9. Related to a complaint investigation involving the unlicensed practice of architecture by Bell and ADU, Bell wrote to the Board in June 2005, stating that "I am currently one of the principals of our firm (ADU), but I'm not the licenced (sic) holder of the firm for the state of North Carolina... The other principal for our firm is Mr. Carmelito R. Cataylo who is the qualifier for the North Carolina Licensing."
10. Correspondence was sent to the address that the Board had for Cataylo, 12913 Creedmoor Road, Wake Forest, NC, asking that Cataylo tell the Board how many projects ADU had worked on.
11. During the investigation and resolution of the investigation of ADU by Consent Order (Case no. 623), mail, fax and telephone communications addressed to Cataylo from the Board's staff and attorneys were directed to ADU's North Carolina office. Cataylo represents that he was not aware of the investigation, nor did he speak with the Board's staff or attorneys until after the Consent Order was entered in Case No. 623, nor did he sign the Consent Order.
12. The Consent Order in Case No. 623 specified 40 architectural projects completed by ADU, Inc., in North Carolina without being registered with the Board of Architecture and imposed a fine and administrative costs on Cataylo as the license holder for ADU.
13. The Consent Order also ordered Cataylo to properly register ADU with the Board within 60 days of the Consent Order.
14. After the entry of the Consent Order in Case No. 623, Cataylo voluntarily told the Board that he had not known about the Consent Order when it was entered, had not signed it, and did not know that ADU, Inc., had performed more than two projects in North Carolina – projects that he had supervised
15. Cataylo also informed the Board staff that he had been a full time resident of the State of California since June of 1991 and was a full time employee of an entity other than ADU.
16. Cataylo also states that while he was associated with ADU, Inc., he believed the company was not getting much work and that it was not performing any architectural work he was not supervising. Cataylo states that he believed Bell was supporting himself by working full time outside of ADU.
17. Cataylo also states that upon learning in January 2006 that someone else (he could only presume Bell) had practiced architecture through ADU and probably traded upon Cataylo's license, he severed all ties with Bell and ADU.

18. Cataylo did not renew his North Carolina architectural license in 2006 and has tendered to the Board his existing North Carolina seals and lapsed license to the Board.
19. In November 2006, Bell and ADU entered into a Consent Judgment in the Superior Court of Wake County in which Bell agreed that he had unlawfully traded upon the title "architect" and the architectural license of Carmelito Cataylo to mislead the public into thinking he and ADU are authorized to use the title "architect" and practice "architecture."
20. In the Consent Judgment, Bell and ADU agreed that Bell had unlawfully traded upon Cataylo's seal to mislead the public into thinking the plans drafted by him were drafted by an architect.
21. In the Consent Judgment, Bell and ADU agreed that the conduct of Bell and ADU was in flagrant disregard of the law and resulted in the endangerment of life, health, and property.
22. At the time of the entry of the consent judgment, Cataylo was no longer an officer or owner in ADU and did not participate in the Consent Judgment.
23. During the investigation of the present action, Case No. 649, Cataylo voluntarily advised the Board that he had not been physically present in North Carolina to supervise the daily operations of ADU, but had relied upon Bell, whom he had known for many years and had trusted, to manage the marketing and administrative aspects of the company as well as to work as a draftsman under Cataylo's supervision when architectural work was available that Cataylo thought the company could handle.
24. Without Cataylo's direct supervision of the marketing and administrative aspects of ADU, however, Bell was able to trade upon Cataylo's license without Cataylo's knowledge.
25. Despite being the only licensee/owner in ADU, Cataylo (a) did not visit the office, (b) did not visit North Carolina for any business reason, (c) did not monitor the activities of ADU, and (c) did not structure the governance and operation of ADU in a way that he could have any meaningful direct supervision over ADU's practice of architecture in North Carolina.
26. Respondent contends that he did not willfully violate the architecture laws or rules of this state.
27. Respondent wishes to resolve this matter by consent and, in lieu of further proceedings, agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written.

WHEREFORE, THE BOARD MAKES THE FOLLOWING:


CONCLUSIONS OF LAW

1. Cataylo violated Rule .0209(7).
2. Cataylo violated Rule .0206(a)(10).

WHEREFORE, IT IS ORDERED:

1. For a period of five (5) years from the date of this Consent Order, Cataylo shall not apply for a license to practice architecture in the state of North Carolina. During such period of time, Cataylo shall refrain from practicing architecture for any project to be built in the state of North Carolina.
2. If and when Cataylo applies for a North Carolina license in the future, he shall do so only if he will be offering or rendering architectural services as an individual or through a properly registered firm operating in compliance with North Carolina Architecture law.
3. Within four weeks of the entry of this Consent Order, Cataylo shall verify by affidavit attached hereto that he has ~~destroyed~~ ^{TENDERED OR} all forms of his North Carolina professional seal which are in his possession and that he has demanded, in writing, the return or destruction of all forms of his North Carolina seal not in his possession. cc.
4. Cataylo shall at the time of or prior to the approval of this Consent Order, separately provide a verification of this Consent Order which may be used by the Board in any proceeding to enforce the Consent Judgment referenced above against John Bell and ADU.
5. Cataylo shall pay a civil penalty in the amount of \$2500.
6. Cataylo shall pay administrative costs in the amount of \$1500.
7. Nothing in this Consent Order shall be deemed to require or prohibit a future Board from approving an application by Cataylo for reinstatement of his license after the expiration of the five (5) year period set forth in paragraph 1, above.

CONSENTED TO:



Carmelito Cataylo

5.7.2007

DATE

APPROVED BY THE BOARD THIS THE 16 DAY OF May, 2007.

THE NORTH CAROLINA BOARD
OF ARCHITECTURE

By 
President

ALL-PURPOSE JURAT

State of California

County of Sacramento

Subscribed and sworn to (or affirmed) before me on this the 7th day of May, 2007, by Carmelita K. Cataylo, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)

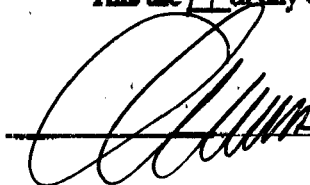


Signature Christopher D. Klug

VERIFICATION

I, **CARMELITO CATAYLO**, being first duly sworn, depose and say that I am the Respondent in the above-captioned matter; that I have read the foregoing Consent Order in Case #649 Before The North Carolina Board of Architecture, and that the findings of fact contained therein are true to my own knowledge, except as to matters stated upon information and belief, and as to those I believe them to be true.

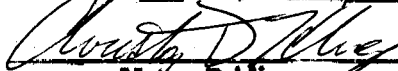
This the 19 th day of APRIL, 2007.



Carmelito Cataylo

STATE OF CALIFORNIA
COUNTY OF Sacramento

Sworn to and subscribed personally before
me this the 19 th day of April, 2007.




Notary Public
My Commission expires: Sept 20, 2009



AFFIDAVIT

I, CARMELITO CATAYLO, being first duly sworn, depose and say that I have tendered to the Board or destroyed all forms of my North Carolina professional seal which have been in my possession and that I have demanded, in writing, the return or destruction of all forms of my North Carolina seal not in my possession, if any.

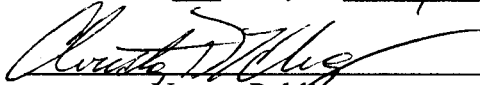
This the 7 th day of MAY, 2007.



Carmelito Cataylo

STATE OF CALIFORNIA
COUNTY OF Sacramento

Sworn to and subscribed personally before
me this the 7th day of May, 2007.



Notary Public

My Commission expires: Sept 20, 2009

