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July 26, 2005

Jack Johnson
711 S. Aspen Street, #23
Aspen, CO 81611

RE: Cease and Desist Order

Dear Mr. Johnson:

I represent the Colorado Board of Examiners of Architects ("Board"). At its regular meeting on July 22, 2005, the Board considered the complaint filed against you by Cuthbert L. Myrin, Jr. on or about May 20, 2005 and your June 10, 2005 response. After discussion, the Board decided to refer this matter to my office for further action and directed me to prepare and issue this response and Cease and Desist Order.

The following provisions of the Colorado Revised Statutes are relevant to this matter:

Section 12-24-102. Definitions. As used in this article, unless the context otherwise requires,

(1) "Architect" means a person licensed under the provisions of this article and entitled thereby to conduct a practice of architecture in the state of Colorado.

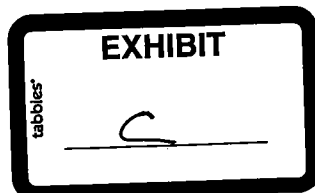
Section 12-24-113. Violations – Penalties – injunctions. (1) It is a class 3 misdemeanor for any person, including any corporation, association, or partnership, to:

....

(b) Engage in conduct which is intended or reasonably might be expected to mislead the public into believing that such person is an architect; or

(c) Without having a license issued under this article:

(I) Advertise, represent, or hold himself out in any manner as an architect, unless practicing pursuant to section 12-4-112(4).



....

(2.5) If the board has reasonable cause to believe that any person is violating any provision of this section or any lawful rule or regulation issued under this section, in addition to all other actions provided for in this article and without prejudice thereto, the board or its designee may enter an order requiring such person to cease and desist from violating this section or such rule or regulation and, in addition, may request that an action be brought on relation of the people of the state of Colorado by the attorney general or by the district attorney of the district in which the violation is alleged to have occurred, to enjoin such person from engaging in or continuing such violation or from doing any act in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper.

As described in materials you provided to the Board, you stated on two separate occasions that you are an architect: in a live public forum (May 17, 2005 televised debate), and in local print media (your May 20, 2005 letter to the editor of *The Aspen Times*). The Board found, based upon the evidence presented, that you have engaged in conduct that reasonably might be expected to mislead the public into believing you are a licensed architect and/or held yourself out as a licensed architect. The Board determined that your statements could mislead the public into believing that you are licensed to practice architecture.

In your June 10, 2005 response letter, you explain that you possess a Bachelor's degree in Architecture and suggest that your education entitles you to refer to yourself as an architect. Certainly, Colorado statutes do not prohibit you from stating that you have a degree in architecture. However, the law clearly prohibits any conduct that might falsely suggest that a person is licensed by the Board. See C.R.S. § 12-4-113 (2004). The Board concluded that by identifying yourself as an "architect" twice and in the manner described, you misled the public into believing that you are licensed to practice architecture and/or held yourself out as a licensed architect, in violation of Section 12-4-113, C.R.S.

Also in your letter, you emphasize that you are not engaged in the practice of architecture, using the term "architect" in any business, or soliciting business as an architect. You further seem to argue, at page 4, that Article 4 of Title 12, C.R.S., prohibits the unlicensed practice of architecture, but does not preclude an unlicensed person trained in architecture from representing himself as an "architect." That argument is incorrect. The statute prohibits the unlicensed practice of architecture. See C.R.S. § 12-4-113(1)(c)(II) (2004). However, as already discussed above, the statute additionally forbids any conduct "which **reasonably might be expected to mislead the public** into believing" that a person is licensed to practice architecture. C.R.S. § 12-4-113(1)(b) (2004) (emphasis added). Under this provision, it is unlawful to create the possibility that the public will think that a person is a licensed

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architect, independent of whether the person is practicing architecture, using "architect" in a business, or soliciting business as an architect.

Based on the foregoing, the Board hereby orders you to cease and desist in identifying yourself as an "architect" in any manner that violates C.R.S. Section 12-4-113 unless and until such time that you possess a proper license and registration to practice architecture from the Board.

Please feel free to call me at the telephone number below if you have any questions.

Sincerely,

FOR THE ATTORNEY GENERAL

A handwritten signature in cursive script that reads "John J. Roberts". The signature is written in black ink and is positioned above the typed name.

JOHN J. ROBERTS
Assistant Attorney General
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