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The Interior Design Protection Council

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IDPC: The TRUTH about IDAF's False Statements **Interior Design Associations Foundation Talking Points 2/10/09**

1. The severely restrictive limitations found in Chapter 481 are wreaking havoc and creating an enormous economic burden on interior designers' and decorators' (as they are forced to call themselves) ability to earn a living and provide for their families. In addition, the income lost because of this law has had the domino effect of taking millions of tax dollars right out of the state treasury. In today's difficult economy, the state government should place no economic burdens which would make it more difficult for its citizens to compete in the free and open market, unless there is clear and compelling evidence that the public is being harmed by the failure to regulate. That evidence is absolutely lacking in Florida, or anywhere in the United States.
2. There are currently only 2746 active licensed interior designers¹ who reside in Florida, about only 20% of the 12,647 previously reported by IDAF. Note, in the 2/10/09 IDAF email, Adriane Pavlick states there are, "12,647 licensed interior designers and architects." On the surface, this would appear to be a deliberate attempt to mislead government officials. The overwhelming majority of those are architects, not interior designers, as Ms. Pavlick should know.
3. (a) Continuation of the licensing law will hurt, not help students or schools. Students are being indoctrinated to support licensing on the basis that in states where interior designers are regulated, interior designers are earning higher wages² and that they will be restricted to residential "decorating" if not state licensed. The reality is students cannot even qualify to sit for the stipulated exam because of the exam criteria that they must work for 2-4 years under another licensed designer before even applying. Parents certainly do not support this obstacle, many calling this generally unpaid internship "indentured servitude" unacceptable after spending sometimes over \$100,000 for their child's college degree. And the prospect of returning to school to pursue another field is neither realistic nor desired.

(b) Interior design colleges with NASAD and AICAD accreditation do not support licensing. "We oppose the... new NCIDQ exam policy (January, 2008), which limits work supervision to only those who have passed the NCIDQ exam or are state certified. And we oppose legislation which incorporates or permits these limitations. This is a particularly serious limitation for designers and students."³
4. The National Kitchen and Bath Association (NKBA) is steadfastly opposed to any interior design regulation.⁴ According to Ed Nagorsky, General Council of the NKBA, "In the past, some of our Florida NKBA Chapters wished to subsidize the dues for their members to be part of the IDAF, and NKBA was asked to pay those amounts. We did so based upon the assumption that our members' involvement in that organization would protect their interests and prevent any further attempts to tighten the restrictions on the design community. Unfortunately, as the recent actions of the licensing

¹ Teri Estes, Government Analyst, Florida Board of Architecture and Interior Design, February 11, 2009

² *Design by Government: The Costs of Licensing Interior Designers*, Harrington and Treber, 2008

³ Position Paper on Interior Design Legislation, Association of Independent Colleges of Art and Design, Oct. 2004

⁴ Position Statement of the National Kitchen and Bath Association, February 29, 2008

board demonstrate, the intent has not been realized. The NKBA supports deregulation or repeal of the Florida practice act to prevent any continued unnecessary and unreasonable restriction on the practice rights of our members.”

5. (a) NKBA neither directs nor gives grants to the Institute for Justice (IJ). IJ is a public interest law firm which advocates on behalf of individuals whose most basic rights are denied by the government – like the right to earn an honest living,⁵ not a “think tank.” IJ does not oppose all government regulations, just the ones that arbitrarily violate citizens’ constitutional rights.

(b) NKBA corporately does not fund the Interior Design Protection Council. IDPC receives its funding from the design community, including sponsors, affiliations and memberships of independent designers, individual members of ASID, IDS, IFDA, Decorating Den, FEDA, IJ, NKBA, OFDA, DANA, DSA, AIDP, as well as private donations.

(c) IDPC information is meticulously researched and the facts revealed represent the truth and expose the misleading and/or blatantly false information.

6. (a) Restraint of trade – *Contracts or combinations that tend, or are designed, to eliminate or stifle competition, create a monopoly, artificially maintain prices, or otherwise hamper or obstruct the course of trade as it would be carried on if it were left to the control of natural economic forces.*⁶ The current law restricts designers who would be perfectly qualified in 47 other states from providing commercial interior design services, with no discernable benefit to the public. The Florida law is a classic example of restraint of trade and should be deregulated or repealed.

(b) The Florida law is anything but reasonable. Under the Florida law “drawing out a [commercial] space plan on a napkin during lunch... [is] illegal.”⁷ “If you are technically reading the statute, that is correct,”⁸ said David Minacci, the attorney in charge of prosecuting the cases. Yet not a shred of evidence has ever been presented to support a conclusion that the unregulated practice of interior design places the public in any form of jeopardy whatsoever.⁹ No legitimate governmental interest will be served by the continuation of Florida practice act 481.

(d) Enforcement of the law has also been both unreasonable and ruthless and is currently being defined as a “witch hunt” and “bounty hunting” by the design community. According to Minacci, his firm is “definitely more aggressive” than when it was handled through the state.¹⁰ “That aggressive prosecution is exactly what the regulatory board was looking for,”¹¹ said Janice Young, an interior designer who was on the board when the investigation and prosecution was privatized. In response to the increase in fines, Young remarked, “How do we stop this (space planning) without a license? We do it by making the punishment more painful and significant.”¹²

(e) Continuation of this law will do nothing more for Florida citizens than artificially inflate prices and offer consumers fewer choices.¹³ It should be noted that there has been no public outcry from consumers that they have been unfairly treated, physically harmed or that they are confused about interior design services. The public does not lack the ability to make informed choices about who they

⁵ The Institute for Justice, www.IJ.org

⁶ <http://legal-dictionary.thefreedictionary.com/restraint+of+trade>

⁷ *Crimes and Misdemeanors*, Michael Wolf, The Monday Morning Quarterback, July 28, 2008

⁸ *State of Fear*, Rob Kirkbride, Monday Morning Quarterback, July 28, 2008

⁹ *Insurgence of the Independents*, Patti Morrow, Vision Magazine, November 2008

¹⁰ *State of Fear*, Rob Kirkbride, Monday Morning Quarterback, July 28, 2008

¹¹ *Ibid*

¹² *Ibid*

¹³ Federal Trade Commission report, 1987

retain for design services; they are quite capable of reviewing portfolios and websites, interviewing potential designers, checking references and checking private certification credentials to determine what level of designer fits their project. They do not need, nor is it appropriate, for the government to take this decision out of the hands of the consumer and dictate who they may or may not hire.

(d) Continuation of the Florida law results in decreased revenue for the state (see No. 1 above).

7. The NCIDQ historically has a passage rate of approximately 50%, takes up to six months to prepare, costs \$2000 or more to take including study materials and prep courses, and is rarely passed on the first attempt. In fact, the passage rates are less than even the bar exam in most states. According to testimonies of designers in the 47 states without practice regulation, few designers even bother to take it because it is generally considered irrelevant by designers and more importantly, by their clients.
8. The cost for continuing education (\$140+) combined with renewal of license (\$125)¹⁴ totals a minimum of \$265, probably more since most courses would most likely cost more than \$140. In an already difficult economy, why should designers have to pay *anything* for an unnecessary license that does nothing to protect the public beyond measures already in place?
9. (a) 22 office furniture dealers have been the subject of disciplinary actions in Florida. Some have been fined; some have been issued cease and desist orders and had to sign an affidavit relinquishing their right to provide the same services that they have done for decades, and their name will forever come up in internet search engines as a prosecution or disciplinary action; others have purportedly spent up to \$100,000 in order to comply with a law that is totally unnecessary. *That* is both perception and reality.

(b) Hundreds of disciplinary actions, involving approximately 22 professions have been brought since 2002. Some of the outrageous examples of the out-of-control enforcement of this law include, but are limited to, listing “interior designer” on a business card, ad, or website; listing “interior designer” on a gifted personal bookmark; listing “interior designer” on the *application* for licensure.

10. (a) The Office Furniture Dealers Association (OFDA) is indeed concerned about the restrictions the Florida practice law has placed on office furniture dealers’ ability to perform all aspects of space planning, as they have successfully done for decades without harm to the public. OFDA Executive Director Chris Bates said, “*Florida has caused a lot of heartburn in recent months among a variety of office furniture dealers and their suppliers as a result of the State’s aggressive enforcement of its interior design practice law. The law also has affected some OFDA members from other states that participate in or supply designs to commercial or government projects in Florida.*”¹⁵

(b) In addition, the North American Association of Food Equipment Manufactures has recently published a position statement strongly denouncing the Florida law. They state, “[*T*]he Florida Interior Design Practice Act has been turned into an attempt by a cartel to create a monopoly of design services. The only effect will be to increase the costs of upgrading the efficiency of restaurants and other food service establishments in the State of Florida, including those operated by the State itself, and of its citizens. Enforcement of this Act must be suspended and the Act repealed.”¹⁶

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¹⁴ Florida Department of Business and Professional Regulation, Joseph #2-525450-63, February 17, 2009

¹⁵ *Interior Design Regulation: Considering the Anti-competitive Effects*, Office Insights, September 22, 2008

¹⁶ Statement of the North American Association of Food Equipment Manufacturers Concerning Florida Statute 481 (the Interior Design Practice Act), February 2009