

1 XAVIER BECERRA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 AMBER N. WIPFLER
Deputy Attorney General
4 State Bar No. 238484
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3550
6 Facsimile: (415) 703-5480
E-mail: Amber.Wipfler@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **REGISTRAR OF CONTRACTORS**
10 **CONTRACTORS' STATE LICENSE BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. N2017-256

14 **A S C BERKELEY INC.**
15 **dba ALL SEASONS CONSTRUCTION**
16 **MARK LYMAN CORRALLO, RMO/CEO/PRES**
5277 College Ave., #10
Oakland, CA 94618

A C C U S A T I O N

17 **Contractor's License No. 906600, B**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Wood Robinson (Complainant) brings this Accusation solely in his official capacity
22 as the Enforcement Supervisor I of the Contractors' State License Board, Department of
23 Consumer Affairs.

24 2. On or about November 15, 2007, the Registrar of Contractors issued Contractor's
25 License Number 906600, B to A S C Berkeley, Inc., dba All Seasons Construction, Mark Lyman
26 Corrallo RMO/CEO/Pres (Respondent). The Contractor's License was in full force and effect at
27 all times relevant to the charges brought herein and will expire on November 30, 2019, unless
28 renewed.

1 additional license issued under this chapter in the name of the licensee or for which the licensee
2 furnished qualifying experience and appearance under the provisions of Section 7068, may be
3 revoked by the registrar without further notice.”

4 8. Section 7106.5 of the Code provides, in pertinent part, that the expiration,
5 cancellation, forfeiture, or suspension of a license by operation of law or by order or decision of
6 the registrar, or a court of law, or the voluntary surrender of the license shall not deprive the
7 registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
8 against the license, or to render a decision suspending or revoking the license.

9 9. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Registrar of jurisdiction to proceed with a disciplinary action during the
11 period within which the license may be renewed, restored, reissued or reinstated. Under Code
12 section 7076.1, the Registrar may reinstate a cancelled license if the licensee pays all of the fees
13 and meets all of the qualifications and requirements for obtaining an original license.

14 10. Section 7076.5 of the Code provides, in pertinent part, that the inactive status of a
15 license shall not bar any disciplinary action for violating provisions of the Contractors' State
16 License Law (Bus. & Prof. Code, § 7000, et seq.).

17 11. Section 7107 of the Code states that “[a]bandonment without legal excuse of any
18 construction project or operation engaged in or undertake by the licensee as a contractor
19 constitutes a cause for disciplinary action.”

20 12. Section 7109 of the Code states:

21 “(a) A willful departure in any material respect from accepted trade standards for good and
22 workmanlike construction constitutes a cause for disciplinary action, unless the departure was in
23 accordance with plans and specifications prepared by or under the direct supervision of an
24 architect.

25 “(b) A willful departure from or disregard of plans or specifications in any material respect,
26 which is prejudicial to another, without the consent of the owner or his or her duly authorized
27 representative and without the consent of the person entitled to have the particular construction
28

1 project or operation completed in accordance with such plans or specifications, constitutes a
2 cause for disciplinary action.”

3 13. Section 7113 of the Code states that “[f]ailure in a material respect on the part of a
4 licensee to complete any construction project or operation for the price stated in the contract for
5 such construction project or operation or in any modification of such contract constitutes a cause
6 for disciplinary action.”

7 14. Section 7121 of the Code states that “[a] person who has been denied a license for a
8 reason other than failure to document sufficient satisfactory experience for a supplemental
9 classification for an existing license, or who has had his or her license revoked, or whose license
10 is under suspension, or who has failed to renew his or her license while it was under suspension,
11 or who has been a partner, officer, director, manager, or associate of any partnership, corporation,
12 limited liability company, firm, or association whose application for a license has been denied for
13 a reason other than failure to document sufficient satisfactory experience for a supplemental
14 classification for an existing license, or whose license has been revoked, or whose license is under
15 suspension, or who has failed to renew a license while it was under suspension, and while acting
16 as a partner, officer, director, manager, or associate had knowledge of or participated in any of the
17 prohibited acts for which the license was denied, suspended, or revoked, shall be prohibited from
18 serving as an officer, director, associate, partner, manager, qualifying individual, or member of
19 the personnel of record of a licensee, and the employment, election, or association of this type of
20 person by a licensee in any capacity other than as a nonsupervising bona fide employee shall
21 constitute grounds for disciplinary action.”

22 15. Section 7121.5 of the Code states that “[a] person who was the qualifying individual
23 on a revoked license, or of a license under suspension, or of a license that was not renewed while
24 it was under suspension, shall be prohibited from serving as an officer, director, associate,
25 partner, manager, or qualifying individual of a licensee, whether or not the individual had
26 knowledge of or participated in the prohibited acts or omissions for which the license was
27 revoked, or suspended, and the employment, election, or association of that person by a licensee
28 shall constitute grounds for disciplinary action.”

1 16. Section 7159 of the Code states:

2 “(a)

3 “(1) This section identifies the projects for which a home improvement contract is required,
4 outlines the contract requirements, and lists the items that shall be included in the contract, or
5 may be provided as an attachment.

6 ...

7 “(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be
8 licensed under this chapter, to provide the specified information, notices, and disclosures in the
9 contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

10 ...

11 “(d) A home improvement contract and any changes in the contract shall be in writing and
12 signed by the parties to the contract prior to the commencement of work covered by the contract
13 or an applicable change order and, except as provided in paragraph (8) or subdivision (a) of
14 Section 7159.5, shall include or comply with all of the following:

15 ...

16 “(3) The following heading on the contract form that identifies the type of contract in at
17 least 10-point boldface type: ‘Home Improvement.’

18 “(4) The following statement in at least 12-point boldface type: ‘You are entitled to a
19 completely filled in copy of this agreement, signed by both you and the contractor, before any
20 work may be started.’

21 ...

22 “(8) If a downpayment will be charged, the details of the downpayment shall be expressed
23 in substantially the following form, and shall include the text of the notice as specified in
24 subparagraph (C):

25 ...

26 “(C) The following statement, in at least 12-point boldface type: ‘THE DOWNPAYMENT
27 MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER
28 IS LESS.’

1 ...

2 “(13) The heading: ‘Note About Extra Work and Change Orders,’ followed by the
3 following statement: ‘Extra Work and Change Orders become part of the contract once the order
4 is prepared in writing and signed by the parties prior to the commencement of work covered by
5 the new change order. The order must describe the scope of the extra work or change, the cost to
6 be added or subtracted from the contract, and the effect the order will have on the schedule of
7 progress payments.’

8 ...

9 “(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the
10 following notices shall be provided to the owner as part of the contract form as specified or, if
11 otherwise authorized under this subdivision, may be provided as an attachment to the contract:

12 ...

13 “(3) A notice that provides the buyer with the following information about the performance
14 of extra or change-order work:

15 ...

16 “(A) A statement that the buyer may not require a contractor to perform extra or change-
17 order work without providing written authorization prior to the commencement of work covered
18 by the new change order.

19 “(B) A statement informing the buyer that extra work or a change order is not enforceable
20 against a buyer unless the change order also identifies all of the following in writing prior to the
21 commencement of work covered by the new change order:

22 “(i) The scope of the work encompassed by the order.

23 “(ii) The amount to be added or subtracted from the contract.

24 “(iii) The effect the order will make in the progress payments or the completion date.

25 “(C) A statement informing the buyer that the contractor’s failure to comply with the
26 requirements of this paragraph does not preclude the recovery of compensation for work
27 performed based upon legal or equitable remedies designed to prevent unjust enrichment.

28 “(6)

1 “(A) The notice set forth in subparagraph (B) and entitled ‘Three-Day Right to Cancel,’
2 shall be provided to the buyer unless the contract is:

3 “(i) Negotiated at the contractor's place of business.

4 “(ii) Subject to the ‘Seven-Day Right to Cancel,’ as set forth in paragraph (7).

5 “(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with
6 Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and
7 1689.7 of the Civil Code, as applicable.

8 “(B) ‘Three-Day Right to Cancel

9 “‘You, the buyer, have the right to cancel this contract within three business days. You may
10 cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the
11 contractor's place of business by midnight of the third business day after you received a signed
12 and dated copy of the contract that includes this notice. Include your name, your address, and the
13 date you received the signed copy of the contract and this notice.

14 “‘If you cancel, the contractor must return to you anything you paid within 10 days of
15 receiving the notice of cancellation. For your part, you must make available to the contractor at
16 your residence, in substantially as good condition as you received them, goods delivered to you
17 under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on
18 how to return the goods at the contractor's expense and risk. If you do make the goods available
19 to the contractor and the contractor does not pick them up within 20 days of the date of your
20 notice of cancellation, you may keep them without any further obligation. If you fail to make the
21 goods available to the contractor, or if you agree to return the goods to the contractor and fail to
22 do so, then you remain liable for performance of all obligations under the contract.’

23 “(C) The ‘Three-Day Right to Cancel’ notice required by this paragraph shall comply with
24 all of the following:

25 “(i) The text of the notice is at least 12-point boldface type.

26 “(ii) The notice is in immediate proximity to a space reserved for the owner’s signature.

27 “(iii) The owner acknowledges receipt of the notice by signing and dating the notice form
28 in the signature space.

1 “(iv) The notice is written in the same language, e.g., Spanish, as that principally used in
2 any oral sales presentation.

3 “(v) The notice may be attached to the contract if the contract includes, in at least 12-point
4 boldface type, a checkbox with the following statement: ‘The law requires that the contractor give
5 you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a
6 ‘Notice of the Three-Day Right to Cancel.’”

7 “(vi) The notice shall be accompanied by a completed form in duplicate, captioned ‘Notice
8 of Cancellation,’ which also shall be attached to the agreement or offer to purchase and be easily
9 detachable, and which shall contain the following statement written in the same language, e.g.,
10 Spanish, as used in the contract:

11 “The notice shall be accompanied by a completed form in duplicate, captioned ‘Notice of
12 Cancellation,’ which also shall be attached to the agreement or offer to purchase and be easily
13 detachable, and which shall contain the following statement written in the same language, e.g.,
14 Spanish, as used in the contract:

15 “‘Notice of Cancellation
16 /enter date of transaction/
17 (Date)

18 You may cancel this transaction, without any penalty or obligation, within three business
19 days from the above date.

20 If you cancel, any property traded in, any payments made by you under the contract or sale,
21 and any negotiable instrument executed by you will be returned within 10 days following receipt
22 by the seller of your cancellation notice, and any security interest arising out of the transaction
23 will be canceled.

24 If you cancel, you must make available to the seller at your residence, in substantially as
25 good condition as when received, any goods delivered to you under this contract or sale, or you
26 may, if you wish, comply with the instructions of the seller regarding the return shipment of the
27 goods at the seller’s expense and risk.

28

1 If you do make the goods available to the seller and the seller does not pick them up within
2 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without
3 any further obligation. If you fail to make the goods available to the seller, or if you agree to
4 return the goods to the seller and fail to do so, then you remain liable for performance of all
5 obligations under the contract.

6 To cancel this transaction, mail or deliver a signed and dated copy of this cancellation
7 notice, or any other written notice, or send a telegram to

8 /name of seller/,

9 at

10 /address of seller's place of business/

11 not later than midnight of

12 (Date).

13 I hereby cancel this transaction.

14 (Date)

15 (Buyer's signature)'''

16 COST RECOVERY/RESTITUTION

17 17. Section 125.3 of the Code provides, in pertinent part, that the Registrar may request
18 the administrative law judge to direct a licentiate found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
20 and enforcement of the case.

21 18. Section 11519(d) of the Government Code provides, in pertinent part, that the
22 Registrar may require restitution of damages suffered as a condition of probation in the event
23 probation is ordered.

24 FACTUAL ALLEGATIONS

25 19. On or about February 27, 2015, homeowner B.S.¹ entered into a \$34,950 home
26 improvement contract with Respondent for foundation and drainage work on a detached
27

28 ¹ Initials are used to protect the privacy of the homeowners. Full names will be disclosed during the discovery process.

1 residential garage. The scope of work in the contract included the construction of a retaining
2 wall foundation, along with the following drainage work:

- 3 1) Cut a strip in the driveway from the garage all the way to the street gutter as necessary
to bury a solid 4" PVC discharge pipe.
- 4 2) Capture the drainage pipe for the new retaining wall foundation and the two existing
5 discharge pipes along the right side of the driveway, connect them to the new buried pipe
and send all collected water to the street gutter.
- 6 3) Repair all concrete.

7 20. B.S., her husband R.D., and Respondent subsequently agreed to two written change
8 orders and one verbal change order, raising the total contract price to a maximum of \$43,500.

9 21. Respondent's work on the garage began on or about August 1, 2015, and ended on or
10 about October 7, 2015.

11 22. Approximately two months after work on the garage was completed, R.D. reported
12 water leaking into the garage and puddling on the floor.

13 FIRST CAUSE FOR DISCIPLINE

14 (Abandoning Project Without Legal Excuse)

15 23. Respondent is subject to disciplinary action under section 7107 of the Code in that
16 Respondent abandoned a construction project without completing work for which Respondent
17 was contracted and paid; specifically, Respondent failed to install the drainage system specified
18 in the February 27, 2015 contract.

19 SECOND CAUSE FOR DISCIPLINE

20 (Willful Departure from Accepted Trade Standards)

21 24. Respondent is subject to disciplinary action under section 7109, subdivision (a) of the
22 Code in that Respondent willfully departed from accepted trade standards for good and
23 workmanlike construction in the following material respects:

- 24 a. The drain fabric (Miradrain) installed on the outside of the concrete retaining
25 walls was installed backwards.
- 26 b. The lower edges of the exposed wooden siding along the two sides of the
27 garage were covered in concrete.
- 28 c. The exposed wood siding had inadequate ventilation.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Willful Departure from Plans and Specification)**

3 25. Respondent is subject to disciplinary action under section 7109, subdivision (b) of
4 the Code in that Respondent willfully departed from or disregarded the plans or specifications,
5 which was prejudicial to another, without the consent of the owner or his or her duly authorized
6 representative and without consent of the person entitled to have the particular construction
7 project or operation completed in accordance with plans or specifications, in that the concrete
8 footings and walls were installed monolithically, rather than in orchestrated segments of removal
9 and replacement as specified in the engineer's plans.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to Complete Project for Specified Price)**

12 26. Respondent is subject to disciplinary action under section 7113 of the Code in that
13 Respondent failed in a material respect to complete/correct the project for the price stated in the
14 contract, in the following respects:

- 15 a. B.S. and R.D. paid Respondent \$44,598.68 (\$1,089.68 above the contract price
16 of \$43,500).
- 17 b. After Respondent refused to make corrections, R.D. paid a correcting contractor
18 \$6,000 for remedial work to mitigate water intrusion into the garage.
- 19 c. The Board's industry expert estimates an additional cost of \$25,850 to correct
20 workmanship problems related to Respondent's work.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Provide Written Change Order)**

23 27. Respondent is subject to disciplinary action under section 7159, subdivision (d) of the
24 Code in that on or about October 1, 2015, Respondent entered into a verbal, non-written
25 agreement with R.D. to perform cosmetic repairs to the garage for an additional \$500.

26 **SIXTH CAUSE FOR DISCIPLINE**

27 **(Failure to Comply with Home Improvement Contract Requirements)**

28

1 other license issued in the name of Respondent, or for which Mark Lyman Corrallo furnished the
2 qualifying experience and appearance.

3 30. Pursuant to section 7121 of the Code, if discipline is imposed on license number
4 951031, B issued to Respondent, Mark Lyman Corrallo shall be prohibited from serving as an
5 officer, director, associate, partner, manager, or qualifying individual, or member of the personnel
6 of record of a licensee of any licensee during the time the discipline is imposed, and any licensee
7 which employs, elects, or associates Mark Lyman Corrallo shall be subject to disciplinary action.

8 31. Section 7095 of the Code provides, in pertinent part, that the Registrar in making his
9 order may:

10 a. Provide for the immediate complete suspension by the licensee of all operations as a
11 contractor during the period fixed by the decision.

12 b. Permit the licensee to complete any or all contracts shown by competent evidence
13 taken at the hearing to be then uncompleted.

14 c. Impose upon the licensee compliance with such specific conditions as may be just in
15 connection with its operations as a contractor disclosed at the hearing, and may further provide
16 that until such conditions are complied with, no application for restoration of the suspended or
17 revoked licensee shall be accepted by the Registrar.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Registrar of Contractors issue a decision:

21 1. Revoking or suspending Contractor's License Number 906600, B issued to A S C
22 Berkeley, Inc., dba All Seasons Construction, Mark Lyman Corrallo RMO/CEO/Pres;

23 2. Prohibiting Mark Lyman Corrallo from serving as an officer, director, associate,
24 partner, or qualifying individual of any licensee during the period that discipline is imposed on
25 license Number 906600, B, issued to A S C Berkeley, Inc., dba All Seasons Construction, Mark
26 Lyman Corrallo RMO/CEO/Pres;

27 3. Revoking or suspending any other license for which Mark Lyman Corrallo is
28 furnishing the qualifying experience or appearance;

1 4. Ordering restitution of all damages according to proof suffered by B.S. and R.D. as a
2 condition of probation in the event probation is ordered;

3 5. Ordering restitution of all damages suffered by B.S. and R.D. as a result of
4 Respondent's conduct as a contractor, as a condition of restoration of license Number 906600, B,
5 issued to A S C Berkeley, Inc., dba All Seasons Construction, Mark Lyman Corrallo
6 RMO/CEO/Pres;

7 6. Ordering Respondent to pay the Registrar of Contractors' costs for the investigation
8 and enforcement of the case according to proof at the hearing, pursuant to Business and
9 Professions Code section 125.3;

10 7. Ordering Respondent to provide the Registrar with a listing of all contracting projects
11 in progress and the anticipated completion date of each;

12 8. Taking such other and further action as deemed necessary and proper.

13
14
15 DATED:

7-13-2018



WOOD ROBINSON
Enforcement Supervisor I
Contractors' State License Board
Department of Consumer Affairs
State of California
Complainant
ARF

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