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

13 In the Matter of the Accusation Against:	Case No. N2020-205
14 H&L CONCRETE CONSTRUCTION, INC. 15 LAMONA ETEAKI LELENOA, RMO/CEO/PRES 2260 47th Avenue 16 Oakland, CA 94601	ACCUSATION
17 Contractor's License No. 1043967, C-8,	
18 LAMONA ETEAKI LELENOA, DBA A&L CONCRETE CONTRACTORS 2260 47th Avenue 19 Oakland, CA 94601	
20 Contractor's License No. 845438, C-8	
21 Respondent.	

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24 **PARTIES**

25 1. Christina Delp (Complainant) brings this Accusation solely in her official capacity as
26 the Supervising Special Investigator II of the Contractors State License Board (Board),
27 Department of Consumer Affairs.

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1 by operation of law or by order or decision of the registrar or a court of law, or the
2 voluntary surrender of a license by a licensee, shall not deprive the registrar of
jurisdiction to proceed with any investigation of or action or disciplinary proceeding
against the license, or to render a decision suspending or revoking the license.

3 9. Section 7121 of the Code states:

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12 license, or whose license has been revoked, or whose license is under suspension, or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

13 10. Section 7121.5 of the Code states:

14 A person who was the qualifying individual on a revoked license, or of a
15 license under suspension, or of a license that was not renewed while it was under
16 suspension, shall be prohibited from serving as an officer, director, associate, partner,
17 manager, or qualifying individual of a licensee, whether or not the individual had
18 knowledge of or participated in the prohibited acts or omissions for which the license
19 was revoked, or suspended, and the employment, election, or association of that
20 person by a licensee shall constitute grounds for disciplinary action.

19 STATUTORY PROVISIONS

20 11. Code section 7027.4 states, in pertinent part:

21 (a) It is a cause for discipline for any contractor to advertise that he or she is
22 "insured" or has insurance without identifying in the advertisement the type of
23 insurance, including, for example, "commercial general liability insurance" or
24 "workers' compensation insurance" that is carried by the contractor. The contractor
25 may abbreviate the title of the type of insurance.

26 (b) It is cause for discipline for a contractor to advertise that he or she is
27 "bonded" if the reference is to a contractor's license bond required pursuant to Section
28 7071.6 or to a disciplinary bond required pursuant to Section 7071.8.

26

27 12. Code section 7107 states:

28 Abandonment without legal excuse of any construction project or operation

1 engaged in or undertaken by the licensee as a contractor constitutes a cause for
2 disciplinary action.

3 13. Code section 7109, subdivision (a) states:

4 A willful departure in any material respect from accepted trade standards for
5 good and workmanlike construction constitutes a cause for disciplinary action, unless
6 the departure was in accordance with plans and specifications prepared by or under
7 the direct supervision of an architect.

8 14. Code section 7113 states:

9 Failure in a material respect on the part of a licensee to complete any
10 construction project or operation for the price stated in the contract for such
11 construction project or operation or in any modification of such contract constitutes a
12 cause for disciplinary action.

13 15. Code section 7117(a) states, in pertinent part, that acting in the capacity of a
14 contractor under any license issued except in the name of the licensee as set forth upon the license
15 constitutes a cause for disciplinary action.

16 16. Code section 7117.6 states:

17 Acting in the capacity of a contractor in a classification other than that currently
18 held by the licensee constitutes a cause for disciplinary action.

19 17. Code section 7122.5 states:

20 The performance by an individual, partnership, corporation, limited liability
21 company, firm, or association of an act or omission constituting a cause for
22 disciplinary action, likewise constitutes a cause for disciplinary action against a
23 licensee who at the time that the act or omission occurred was the qualifying
24 individual of that individual, partnership, corporation, limited liability company, firm,
25 or association, whether or not he or she had knowledge of or participated in the
26 prohibited act or omission.

27 18. Code section 7125.4 states:

28 (a) The filing of the exemption certificate prescribed by this article that is false,
or the employment of a person subject to coverage under the workers' compensation
laws after the filing of an exemption certificate without first filing a Certificate of
Workers' Compensation Insurance or Certification of Self-Insurance in accordance
with the provisions of this article, or the employment of a person subject to coverage
under the workers' compensation laws without maintaining coverage for that person,
constitutes cause for disciplinary action.

(b) Any qualifier for a license who, under Section 7068.1, is responsible for
assuring that a licensee complies with the provisions of this chapter is also guilty of a
misdemeanor for committing or failing to prevent the commission of any of the acts
that are cause for disciplinary action under this section.

1 **COST RECOVERY, RESTITUTION AND OTHER AUTHORITY**

2 19. Section 125.3 of the Code states, in pertinent part:

3 (a) Except as otherwise provided by law, in any order issued in resolution of a
4 disciplinary proceeding before any board within the department or before the
5 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
6 administrative law judge may direct a licentiate found to have committed a violation
7 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
8 the investigation and enforcement of the case.

9 (b) In the case of a disciplined licentiate that is a corporation or a partnership,
10 the order may be made against the licensed corporate entity or licensed partnership.

11 ...

12 20. Section 11519 of the Government Code states:

13 (a) The decision shall become effective 30 days after it is delivered or mailed to
14 respondent unless: a reconsideration is ordered within that time, or the agency itself
15 orders that the decision shall become effective sooner, or a stay of execution is
16 granted.

17 (b) A stay of execution may be included in the decision or if not included
18 therein may be granted by the agency at any time before the decision becomes
19 effective. The stay of execution provided herein may be accompanied by an express
20 condition that respondent comply with specified terms of probation provided;
21 provided, however, that the terms of probation shall be just as reasonable in light of
22 the findings and decision.

23 (c) If respondent was required to register with any public officer, a notification
24 of any suspension or revocation shall be sent to the officer after the decision has
25 become effective.

26 (d) As used in subdivision (b), specified terms of probation may include an
27 order of restitution. Where restitution is ordered and paid pursuant to the provisions
28 of this subdivision, the amount paid shall be credited to any subsequent judgment in a
civil action.

(e) The person to which the agency action is directed may not be required to
comply with a decision unless the person has been served with the decision in the
manner provided in Section 11505 or has actual knowledge of the decision.

(f) A nonparty may not be required to comply with a decision unless the agency
has made the decision available for public inspection and copying or the nonparty has
actual knowledge of the decision.

(g) This section does not preclude an agency from taking immediate action to
protect the public interest in accordance with Article 13 (commencing with Section
11460.10) of Chapter 4.5.

21. Section 143.5, subdivision (b), of the Code states:

Any board, bureau, or program within the Department of Consumer Affairs that

1 takes disciplinary action against a licensee or licensees based on a complaint or report
2 that has also been the subject of a civil action and that has been settled for monetary
3 damages providing for full and final satisfaction of the parties may not require its
4 licensee or licensees to pay any additional sums to the benefit of any plaintiff in the
5 civil action.

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12 22. Section 7095 of the Code states:

The decision may:

13 (a) Provide for the immediate complete suspension by the licensee of all
14 operations as a contractor during the period fixed by the decision.

15 (b) Permit the licensee to complete any or all contracts shown by competent
16 evidence taken at the hearing to be then uncompleted.

17 (c) Impose upon the licensee compliance with such specific conditions as may
18 be just in connection with his operations as a contractor disclosed at the hearing and
19 may further provide that until such conditions are complied with no application for
20 restoration of the suspended or revoked licensee shall be accepted by the registrar.

21
22 23. Section 7097 of the Code states:

23 Notwithstanding the provisions of Sections 7121 and 7122, when any licensee
24 has been suspended by a decision of the registrar pursuant to an accusation or
25 pursuant to subdivision (b) of Section 7071.17, Section 7085.6 or 7090.1, any
26 additional license issued under this chapter [the Contractors' State License Law] in
27 the name of the licensee or for which the licensee furnished qualifying experience and
28 appearance under the provisions of Section 7068, may be suspended by the registrar
without further notice.

29 24. Section 7098 of the Code states:

30 Notwithstanding the provisions of Sections 7121 and 7122, when any license
31 has been revoked under the provisions of this chapter [the Contractors' State License
32 Law], any additional license issued under this chapter in the name of the licensee or
33 for which the licensee furnished qualifying experience and appearance under the
34 provisions of Section 7068, may be revoked by the registrar without further notice.

35 25. Section 7102 of the Code states:

36 After suspension of a license upon any of the grounds set forth in this chapter
37 [the Contractors' State License Law], the registrar may reinstate the license upon
38 proof of compliance by the contractor with all provisions of the decision as to
39 reinstatement or, in the absence of a decision or any provisions of reinstatement, in
40 the sound discretion of the registrar.

41 After revocation of a license upon any of the grounds set forth in this chapter,
42 the license shall not be reinstated or reissued and a license shall not be issued to any
43 member of the personnel of the revoked licensee found to have had knowledge of or
44 participated in the acts or omissions constituting grounds for revocation, within a
45 minimum period of one year and a maximum period of five years after the final
46 decision of revocation and then only on proper showing that all loss caused by the act
47 or omission for which the license was revoked has been fully satisfied and that all

1 conditions imposed by the decision of revocation have been complied with.

2 The board shall promulgate regulations covering the criteria to be considered
3 when extending the minimum one-year period. The criteria shall give due
4 consideration to the appropriateness of the extension of time with respect to the
5 following factors:

6 (a) The gravity of the violation.

7 (b) The history of previous violations.

8 (c) Criminal convictions.

9 When any loss has been reduced to a monetary obligation or debt, however, the
10 satisfaction of the monetary obligation or debt as a prerequisite for the issuance,
11 reissuance, or reinstatement of a license shall not be required to the extent the
12 monetary obligation or debt was discharged in a bankruptcy proceeding. However,
13 any nonmonetary condition not discharged in a bankruptcy proceeding shall be
14 complied with prior to the issuance, the reissuance, or reinstatement of the license.

15 CSB PROJECT

16 26. On or about July 19, 2019, R.V., president of CSB organization (CSB), entered into a
17 written contract¹ with Respondent H & L to perform site improvements at their community
18 center, located in Roseville, California. The site improvements included performing a
19 commercial renovation to the parking lot, installation of a concrete masonry unit wall (CMU) and
20 installation of rough electrical hook-ups, landscaping and general cleanup of debris for
21 \$100,000.00 (CSB project). At the time of signing the contract, R.V. paid Respondent H&L a
22 deposit in the amount of \$10,000.00 and provided Respondent H&L with a physical copy of the
23 plans. In total, R.V. paid Respondent eight (8) payments between July 19, 2019, and January 22,
24 2020, for a total of \$84,000 on the CSB project. Respondent H&L began work on the CSB
25 project on or about July 22, 2019.

26 27. In August 2019, Respondent H & L discovered that she missed the specification in
27 the blueprint regarding a Proto II CMU wall and that her company is not licensed to install or
28 purchase such a wall. Respondent H & L informed E.J., a board member of the CSB
organization, that it would cost \$45,000 to \$60,000 per wall to subcontract out the work. R.V.

¹ The written contract listed the company name as Property Solutions Contractors, Inc.,; advertised Contractor's License Number 1043967 issued to H&L Concrete Construction; advertised that the company was bonded, insured and had worker's compensation insurance; and, listed Property Solutions Contractor's Inc. address as the exact same address of record on file with the Board for H&L Concrete Construction.

1 agreed to change the specification to a standard cinderblock CMU wall, without any additional
2 cost in the contract. As a result, R.V. hired a new engineer and paid \$1,500.00 to have new plans
3 drawn for the revised cinderblock CMU wall.

4 28. In or about December 2019, Respondent H & L informed R.V. that someone was
5 using her company name and license number and that Respondent H & L had to change her
6 company name from Property Solutions Contractors, Inc. to H & L Concrete Construction, Inc.
7 On or about December 6, 2019, Respondent H & L had R.V. sign a new contract on the same
8 terms to reflect the change.

9 29. On or about February 3, 2020, Respondent H & L emailed R.V. a change order that
10 requested an additional \$68,000.00 for the CSB project due to Respondent H & L under-bidding
11 the job. R.V. rejected the change order because only a small portion of the CSB project had been
12 completed, and R.V. had already paid \$84,000.00 out of the \$100,000.00 contract price to
13 Respondent H & L. Respondent H & L ceased work on the CSB project or about February 25,
14 2020.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Advertising as Insured – Respondent H&L)**

17 30. Respondent H&L has subjected its license to disciplinary action under Code
18 section 7027.4, subdivision (a), in that on the CSB Project, Respondent H&L's contract
19 advertised as being insured without identifying the type of insurance.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Advertising as Bonded – Respondent H&L)**

22 31. Respondent H&L has subjected its license to disciplinary action under Code
23 section 7027.4, subdivision (b), in that on the CSB Project, Respondent H&L's contract
24 advertised as being bonded in reference to Contractor's License Number 1043967 issued to
25 H & L Concrete Construction, Inc.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Abandonment – Respondent H&L)**

3 32. Respondent H&L has subjected its license to disciplinary action under Code
4 section 7107, in that Respondent H & L abandoned the CSB project without legal excuse and
5 without performing the following work:

- 6 a. Remove fencing;
- 7 b. Demolish and remove existing CMU wall;
- 8 c. Install retention planter and rock drain;
- 9 d. Provide erosion control measures;
- 10 e. Perform site grading;
- 11 f. Install storm drainage system;
- 12 g. Perform asphalt work;
- 13 h. Perform concrete flatwork, and install curb and valley drain;
- 14 i. Perform concrete work pursuant to public right of way (ROW);
- 15 j. Provide CMU trash enclosure;
- 16 k. Perform site electrical work;
- 17 l. Install irrigation and construct landscaping;
- 18 m. Install parking and striping pursuant Americans with Disability Act (ADA);
- 19 n. Install signage;
- 20 o. Provide traffic control for encroachment;
- 21 p. Install ADA railing and truncated dome pads;
- 22 q. Provide wheel stops; and,
- 23 r. Clean up from CSB project.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Departure from Accepted Trade Standard – Respondent H&L)**

26 33. Respondent H&L has subjected its license to disciplinary action under Code
27 section 7109, subdivision (a), in that on the CSB Project, Respondent H&L willfully departed
28 from accepted trade standards for good and workmanlike construction, in that the CMU wall was

1 not aligned with cells filled and lippage no greater than 1/8 an inch. Rather, the CMU was out of
2 alignment with cells not filled and blocks showing excessive lippage, a substandard quality of
3 work.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Complete the Project for Contract Price – Respondent H&L)**

6 34. Respondent H&L has subjected its license to disciplinary action under Code
7 section 7113, in that on the CSB Project, it failed in a material respect to complete the CSB
8 project for the contract price and the property owner was required to spend a substantial sum in
9 excess of the contract price to complete the CSB project in accordance with the contract.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Contracting Out of Classification – Respondent H&L)**

12 35. Respondent H&L has subjected its license to disciplinary action under Code
13 section 7117.6, in that, on the CSB project, it contracted for work that required an A-General
14 Engineering Contractor License while only licensed as a C-8 Concrete Contractor.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Obtain Worker's Compensation Insurance – Respondent H&L)**

17 36. Respondent H&L has subjected its license to disciplinary action under Code
18 section 7125.4, subdivision (a), in that, on the CSB project, it employed several persons while
19 failing to maintain Workers' Compensation Insurance for employees.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Namestyle Variance – Respondent H&L)**

22 37. Respondent H&L has subjected its license to disciplinary action under Code
23 section 7117, subdivision (a), in that, on the CSB project, it operated in the capacity of a
24 contractor using a namestyle difference from that in which the license was issued.

25 **NINTH CAUSE FOR DISCIPLINE**

26 **(Cause for Discipline for Qualifier – Respondent Lelenoa)**

27 38. Pursuant to Code section 7122.5, the causes for discipline established as to
28 Respondent H&L constitute cause for discipline against Respondent Lelenoa, doing business as

1 A&L Concrete Contractors, under Contractor's License Number 845438, regardless of whether
2 Respondent Lelena had knowledge of or participated in the acts or omissions which constitute
3 cause for discipline against Respondent H&L.

4 **CAUSES FOR OTHER ACTION**

5 **(Restrictions on Corporate Qualifier – Respondent Lelena)**

6 39. Pursuant to Code section 7121.5, if contractor's license number 1043967, issued to
7 Respondent H&L is revoked or suspended, Respondent Lelena shall be prohibited from serving
8 as an officer, director, associate, partner, manager, or qualifying individual of a licensee during
9 the time the discipline is imposed, whether or not she had knowledge of or participated in the acts
10 or omissions constituting grounds for discipline as alleged in the causes for discipline, above, and
11 any licensee which employs, elects, or associates Respondent Lelena other than as a bona fide
12 nonsupervising employee shall be subject to disciplinary action.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Registrar issue a decision:

- 16 1. Ordering the revocation or suspension of Contractor's License Number 1043967
17 issued to Respondent H&L Concrete Construction, Inc. pursuant to Code section 7090;
- 18 2. Ordering the revocation or suspension of Contractor's License Number 846438 issued
19 to Respondent Lamona Eteaki Lelena, doing business as A&L Concrete Contractors; pursuant to
20 Code section 7090;
- 21 3. Ordering restitution of all damages according to proof suffered by CSB, as a
22 condition of probation in the event probation is ordered for Respondent H&L Concrete
23 Construction, Inc. and/or Respondent Lamona Eteaki Lelena pursuant to Government Code
24 section 11519, subdivision (d);
- 25 4. Ordering Respondent H&L Concrete Construction, Inc. and Respondent Lamona
26 Eteaki Lelena to pay the Registrar costs for the investigation and enforcement of the case
27 according to proof at the hearing, pursuant to Code section 125.3;

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5. Ordering Respondent H&L Concrete Construction, Inc. and Respondent Lamona Eteaki Lelena to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each, pursuant to Code section 7095;

6. Ordering that Respondent Lamona Eteaki Lelena is prohibited from serving as an officer, director, associate, partner, manager or qualifying individual of a licensee, pursuant to Code section 7121.5; and

7. Taking such other and further action deemed proper.

DATED: *July 30, 2021*

Christina Delp
CHRISTINA DELP
Supervising Special Investigator II
Contractors State License Board
Department of Consumer Affairs
State of California
Complainant
KAA

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