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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. N2023-282

14 **FREEWAY MECHANICAL**
Hezekiah Kareem Gray, Sole Owner
1382 Canterbury Drive
15 Concord, CA 94521

ACCUSATION

16 Contractor License No. 979656, B, C-20,

17 Respondent.

18
19 **PARTIES**

20 1. Brian Melvin (Complainant) brings this accusation solely in his official capacity as
21 the Supervising Special Investigator I of the Contractors State License Board (Board),
22 Department of Consumer Affairs.

23 2. On December 19, 2012, the Registrar of Contractors (Registrar) issued Contractor
24 License No. 979656, Classifications B (General) and C-20 (Warm-air Heating, Ventilating and
25 Air-conditioning) to Freeway Mechanical (Respondent Freeway), Hezekiah Kareem Gray
26 (Respondent Gray), sole owner. This license will expire on December 31, 2024, unless renewed.

27 **JURISDICTION**

28 3. This accusation is brought before the Registrar for the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code unless
2 otherwise indicated.

3 4. Section 118 states in part:

4 (b) The suspension, expiration, or forfeiture by operation of law of a license issued
5 by a board in the department, or its suspension, forfeiture, or cancellation by order
6 of the board or by order of a court of law, or its surrender without the written consent
7 of the board, shall not, during any period in which it may be renewed, restored,
8 reissued, or reinstated, deprive the board of its authority to institute or continue a
disciplinary proceeding against the licensee upon any ground provided by law or to
enter an order suspending or revoking the license or otherwise taking disciplinary
action against the licensee on any such ground.

9 5. Section 7076.5 states in part:

10 (h) The inactive status of a license shall not bar any disciplinary action by the board
11 against a licensee for any of the causes stated in this chapter.

12 6. Section 7090 states in part that the Registrar may suspend or revoke any license or
13 registration if the licensee or registrant is guilty of or commits any one or more of the acts or
14 omissions constituting cause for disciplinary action.

15 7. Section 7106.5 states:

16 The expiration, cancellation, forfeiture, revocation, or suspension of a license by
17 operation of law or by order or decision of the registrar or a court of law, or the
18 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.

19 8. Section 7121.5 states:

20 A person who has been denied a license for a reason other than failure to document
21 sufficient satisfactory experience for a supplemental classification for an existing
22 license, or who has had his or her license revoked, or whose license is under
23 suspension, or who has failed to renew his or her license while it was under
24 suspension, or who has been a partner, officer, director, manager, or associate of any
25 partnership, corporation, limited liability company, firm, or association whose
26 application for a license has been denied for a reason other than failure to document
27 sufficient satisfactory experience for a supplemental classification for an existing
28 license, or whose license has been revoked, or whose license is under suspension,
or who has failed to renew a license while it was under suspension, and while acting
as a partner, officer, director, manager, or associate had knowledge of or participated
in any of the prohibited acts for which the license was denied, suspended, or
revoked, shall be prohibited from serving as an officer, director, associate, partner,
manager, qualifying individual, or member of the personnel of record of a licensee,
and the employment, election, or association of this type of person by a licensee in
any capacity other than as a nonsupervising bona fide employee shall constitute
grounds for disciplinary action.

1 **STATUTORY PROVISION**

2 9. Section 7114 states:

3 (a) Aiding or abetting an unlicensed person to evade the provisions of this chapter
4 or combining or conspiring with an unlicensed person, or allowing one's license to
5 be used by an unlicensed person, or acting as agent or partner or associate, or
6 otherwise, of an unlicensed person with the intent to evade the provisions of this
7 chapter constitutes a cause for disciplinary action.

8 (b) A licensee who is found by the registrar to have violated subdivision (a) shall, in
9 accordance with the provisions of this article, be subject to the registrar's authority
10 to order payment of a specified sum to an injured party, including, but not limited
11 to, payment for any injury resulting from the acts of the unlicensed person.

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

13 10. Section 125.3 states in part:

14 (a) Except as otherwise provided by law, in any order issued in resolution of a
15 disciplinary proceeding before any board within the department or before the
16 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
17 administrative law judge may direct a licensee found to have committed a violation
18 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
19 the investigation and enforcement of the case.

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

22 11. Government Code section 11519 states:

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

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

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

(d) As used in subdivision (b), specified terms of probation may include an order of
restitution. Where restitution is ordered and paid pursuant to the provisions 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

1 provided in Section 11505 or has actual knowledge of the decision.

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

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

6 12. Section 143.5 states in part:

7 (b) Any board, bureau, or program within the Department of Consumer Affairs that
8 takes disciplinary action against a licensee or licensees based on a complaint or
report that has also been the subject of a civil action and that has been settled for
9 monetary damages providing for full and final satisfaction of the parties may not
require its licensee or licensees to pay any additional sums to the benefit of any
10 plaintiff in the civil action.

11 13. Section 7095 states:

12 The decision may:

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

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

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

19 14. Section 7097 states:

20 Notwithstanding the provisions of Sections 7121 and 7122, when any license has
21 been suspended by a decision of the registrar pursuant to an accusation or pursuant
to subdivision (b) of Section 7071.17, Section 7085.6 or 7090.1, any additional
22 license issued under this chapter in the name of the licensee or for which the licensee
furnished qualifying experience and appearance under the provisions of Section
23 7068, may be suspended by the registrar without further notice.

24 15. Section 7098 states:

25 Notwithstanding the provisions of Sections 7121 and 7122, when any license has
26 been revoked under the provisions of this chapter, any additional license issued
under this chapter in the name of the licensee or for which the licensee furnished
27 qualifying experience and appearance under the provisions of Section 7068, may be
revoked by the registrar without further notice.

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16. Section 7102 states:

After suspension of a license upon any of the grounds set forth in this chapter, the registrar may reinstate the license upon proof of compliance by the contractor with all provisions of the decision as to reinstatement or, in the absence of a decision or any provisions of reinstatement, in the sound discretion of the registrar.

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

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

- (a) The gravity of the violation.
- (b) The history of previous violations.
- (c) Criminal convictions.

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

CAUSE FOR DISCIPLINE

(Aiding, Abetting, or Conspiring with Unlicensed Person to Evade Law)

17. Respondents have subjected their license to disciplinary action under section 7114, subdivision (a), for aiding, abetting, or conspiring with an unlicensed person to evade the law.

18. On or about May 9, 2022, homeowners contracted with Jesse Diaz, an unlicensed person, to work on their house in Santa Clara, California. Diaz used Respondent Freeway’s name and license number on the contract. The total contract amount was \$125,000.

19. Diaz started work on or about May 20, 2022. The homeowners paid Diaz approximately \$120,241.20, including cashiers and personal checks made out to Freeway Mechanic Construction.

1 Respondent Freeway’s conduct as a contractor as a condition precedent to any future restoration
2 of Contractor License No. 979656 or before any new license is issued;

3 4. Ordering Respondent Freeway under section 125.3 to pay the Registrar costs for
4 the investigation and enforcement of the case according to proof at the hearing;

5 5. Ordering Respondent Gray under section 7095 to provide the Registrar with a
6 listing of all contracting projects in progress and the anticipated completion date of each;

7 6. Ordering that Respondent Gray is prohibited from serving as an officer, director,
8 associate, partner, manager or member of the personnel record of any license under section 7121;
9 and

10 7. Taking such other and further action deemed proper.

11
12 DATED: 3/20/2024

Brian Melvin

BRIAN MELVIN
Supervising Special Investigator I
Contractors State License Board
Department of Consumer Affairs
State of California
Complainant

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