

BEFORE THE
REGISTRAR OF CONTRACTORS
CONTRACTORS STATE LICENSE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JASSOS CONSTRUCTION INC,
10725 Forest Street
Santa Fe Springs, CA 90670
FELIX JASSO, RMO/CEO/PRES,
FELIX JASSO, JR., Officer
ELISEO JIMENEZ, Officer
RAFAEL M. JIMENEZ, Officer

Contractor's License No. 423484,

CASE NO. N2014-281

OAH NO. 2017070099

DECISION AND ORDER

Respondent.

SAVON SOLAR LLC dba SAVON CONSTRUCTION,
9600 Long Beach Blvd., Ste. B
South Gate, CA 90280
FELIX JASSO, Responsible Managing Member,
RAFAEL GARCIA, Member

Contractor's License No. 998752

Affiliated Party.

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, Respondent **JASSOS CONSTRUCTION INC**, License Number **423484**, shall not apply for reissuance or reinstatement of any license for five year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, Respondent **SAVON SOLAR LLC dba SAVON CONSTRUCTION**, License Number **998752**, shall not apply for reissuance or reinstatement of any license for five year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that Respondent shall pay the investigative costs in the amount of \$10,402.46, prior to issuance of a new or reinstated license pursuant to Business and Professions Code section 7102.

IT IS THE responsibility of the Respondents, named in this Decision, to read and follow the Order found in the Proposed Decision.

This Decision shall become effective on February 5, 2018.

IT IS SO ORDERED January 4, 2018.



David Fogt
Registrar of Contractors

INFORMATION PURSUANT TO §11521 OF THE GOVERNMENT CODE

If you wish to file a Petition for Reconsideration pursuant to Government Code §11521, the text which appears below for your review, the Petition must be received prior to the effective date of the Decision. However, please be aware that the Board needs approximately 5 working days to process a Petition. Petitions should be sent to the following address: CONTRACTORS STATE LICENSE BOARD, P.O. BOX 269121, SACRAMENTO, CA 95826, ATTN: LEGAL ACTION DEPUTY. Fax documents can be sent to (916) 255-3933.

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

BEFORE THE
REGISTRAR OF CONTRACTORS
CONTRACTORS' STATE LICENSE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JASSOS CONSTRUCTION INC.,
Felix Jasso, RMO/CEO/PRES,
Felix Jasso Jr., Officer,
Eliseo Jimenez, Officer,
Rafael M. Jimenez, Officer,

Contractor's License No. 423484,

Respondent.

SAVON SOLAR LLC,
Dba SAVON CONSTRUCTION,
Felix Jasso, Responsible Managing Member,
Rafael Garcia, Member,

Contractor's License No. 998752,

Affiliated Party.

PROPOSED DECISION

Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings (OAH), heard this matter in Los Angeles, California, on November 28, 2017.

Steve J. Pyun, Deputy Attorney General, represented Wood Robinson (complainant), Enforcement Supervisor I, Contractors' State License Board (CSLB or Board), Department of Consumer Affairs, State of California.

Roger O. Vega, Attorney at Law, represented Felix Jasso (respondent Felix Jasso), Responsible Managing Officer (RMO), Chief Executive Officer (CEO), and President of Jassos Construction Inc., (respondent Jassos Construction), and Responsible Managing Member (RMM) of Savon Solar LLC, doing business as Savon Construction (Savon

Construction), who appeared. Francisco Porras, Certified Court Interpreter, provided interpretation services to respondent Felix Jasso in Spanish.

Mr. Vega also represented Felix Jasso Jr. (respondent Felix Jasso Jr.), Officer of respondent Jassos Construction, who did not appear.

No appearances were made or on behalf of Eliseo Jimenez (respondent Eliseo Jimenez) and Rafael Jimenez (respondent Rafael Jimenez), Officers of respondent Jassos Construction, and Rafael Garcia (respondent Garcia), Member of Savon Construction.

Oral and documentary evidence was received. The record was closed and the matter submitted for decision on November 28, 2017.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Complainant filed the Accusation in his official capacity on October 25, 2016. Respondents Felix Jasso and Felix Jasso Jr. filed a timely Notice of Defense and Request for Hearing. On July 18, 2017, respondents were properly served with notice of the instant hearing date, time, and place.

2. As indicated above, on the day of the hearing, no appearance was made by or on behalf of respondents Eliseo Jimenez, Rafael, and Garcia, despite the fact that they were served with timely and appropriate notice as required by the Government Code section 11509. Therefore, this matter proceeded as a default prove-up against respondents Eliseo Jimenez, Rafael Jimenez, and Garcia.

License History

3. On June 4, 1982, the Registrar of Contractors (Registrar) issued Contractor's License No. 423484, Classification B, General Building Contractor, to respondent Jassos Construction, with respondent Felix Jasso as RMO/CEO/President, and respondents Felix Jasso Jr., Eliseo Jimenez, and Rafael Jimenez as Officers. This Contractor's License was in full force and effect during all times relevant herein and is scheduled to expire on June 30, 2019, unless renewed.

4. On November 20, 2014, the Registrar issued Contractor's License No. 998752, in Classifications B, to Savon Construction, with respondent Felix Jasso as RMM and respondent Garcia as Member. This Contractor's License was in full force and effect during all times relevant herein and was cancelled on November 30, 2016.¹

¹ Despite the cancellation, the Registrar retains this jurisdiction to proceed with this disciplinary action against this license. (See Legal Conclusion 13.)

East 214th Street Project

5. M.C.² is the owner of a property located on East 214th Street in Carson, California (the East 214th Street Project). On a date not established by the record, M.C. filed a complaint against respondent Jasso's Construction. Complainant submitted a November 14, 2014 Board investigation report (Ex. 4) to establish the facts underlying M.C.'s complaint against respondent Jassos Construction. This report was written by a peace officer and admitted into evidence subject to *Lake v. Reed* (1997) 16 Cal.4th 448,³ based on respondent's counsel's timely objection. Thus, the only direct evidence of respondent's conduct with respect to the East 214th Street came from respondent's admissions to the investigator contained in the investigation report and his testimony at the hearing.

6. In 2013, on a date not established by the record, respondent Felix Jasso met Consuelo Chaneco (Chaneco) of Mac Urban Design & Development at Carson City Hall. Chaneco is an unlicensed contractor whose contractor's license was previously revoked by the Board.⁴ On September 26, 2013, respondent Felix Jasso executed a letter of authorization using respondent Jassos Construction's letterhead, which stated:

This letter is to authorized [sic] Consuelo Chaneco to obtain permits for jobsite located at 1838 E. 214th St. Carson, CA 90745. This authorization is only valid for the mentioned jobsite. If you have any questions, please contact me at XXX-XXX-XXXX (cell) [telephone number redacted] or you can contact Mayra Reyes at the office number.

(Ex. 4, p. 128.)

² Initials are used to protect the party's privacy.

³ In *Lake v. Reed* (1997) 16 Cal.4th 448, 461-462, the California Supreme Court held that certain information contained in a police report is admissible as direct evidence in an administrative proceeding; specifically, the personal observations of the investigating officer and respondent's admissions are admissible for all purposes. However, statements in a police report that are attributable to others, such as witnesses, are "administrative hearsay." The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), which states that hearsay evidence that is objected to, and is not otherwise admissible, may be used only to supplement or explain other evidence. Here, the personal observations of the investigator and the admissions of respondent Felix Jasso are admissible for all purposes. However, statements of other witnesses are "administrative hearsay," and without other direct evidence, cannot support a factual finding.

⁴ On September 6, 1989, the Registrar issued Contractor's License No. 56704 to City Builders, Consuelo Dian Mann, aka Consuelo Chaneco, sole owner. On October 28, 1995, this license was revoked after expiration, pursuant to an administrative matter in Case No. S 1994 336. Mac Urban Design & Development is not licensed with the Board.

7. Chaneco paid respondent Felix Jasso \$200 for the letter of authorization. Respondent Felix Jasso did not conduct any research to determine whether Chaneco is a licensed contractor or whether she is the owner of the East 214th Street residence before he signed the letter. Chaneco subsequently used respondent Jassos Construction's contractor's license to pull three permits, a plumbing permit, an electrical permit, and a building permit for residential additions, alternations, and repair. All three permits were issued by the City of Carson on October 15, 2013.

8. On April 3, 2014, after being advised by the Carson City Inspector that Chaneco had used his contractor's license to pull the three permits and that he would be liable for Chaneco's work on the East 214th Street Project, respondent Felix Jasso handwrote a note underneath the original letter of authorization, which stated as follows:

I, Felix Jasso, revoke my authorization letter and all permits issued under my name by Consuelo Chaneco.

(Ex. 2, p. 129.)

9. After M.C. filed a complaint with the Board against respondent Jassos Construction, Board investigator Eugenia Canchola interviewed respondent Felix Jasso on July 23, 2014. During this interview, respondent Felix Jasso admitted to Investigator Canchola that Chaneco paid him \$200 for the use of his license to pull permits. However, Respondent Felix Jasso claimed that he signed the authorization based on the belief that Chaneco was the owner of the East 214th Street property.

10. On August 12, 2014, CSLB's industry expert, Mike Briggs (Briggs) performed an inspection of the East 214th Street Project. Briggs has been a licensed contractor for over 25 years and has personally supervised or performed projects similar to that of the East 214th Street Project. Based on his inspection, Briggs determined that the costs to complete the items on the project that are incomplete or not up to acceptable trade standards totaled approximately \$121,985.

11. It should be noted that M.C. and Chaneco did not testify at the hearing as witnesses. Given this lack of direct evidence and the significant evidentiary limitations on the November 10, 2014 investigation report,⁵ although the record established that Chaneco used respondent Jasso Constructor's contractor's license to pull three permits on the East 214th Street Project, there was no evidence to demonstrate that Chaneco's work that had left M.C.'s property in a state in which items were incomplete or not up to acceptable trade standards. Therefore, it was not established that Chaneco's acts had resulted financial injury to homeowner M.C.

⁵ As contained in the November 10, 2014 investigation report, all statements made by M.C., Chaneco, and the Carson city inspector to Investigator Canchola, and all documentary evidence executed between M.C. and Chaneco, which did not fall into the business record exception, were not admitted because, without other direct evidence, they are "administrative hearsay" evidence that, alone, cannot support a factual finding.

Respondent Felix Jasso's Testimony Regarding the East 214th Street Project

12. At the hearing, respondent Felix Jasso testified that he met Chaneco for approximately 10 minutes before he agreed to pull an electrical meter permit for her. Chaneco purportedly paid respondent Felix Jasso \$200 for the permit and for him to inspect the electrical meter on a later date. However, according to respondent Felix Jasso, Chaneco never called him to conduct the inspection. A few weeks later, on September 26, 2013, Chaneco reportedly came to respondent Jassos Construction's office and asked respondent Felix Jasso to help her pull some supplemental permits. Respondent Felix Jasso claimed that he believed Chaneco to be the owner of the house on East 214th Street and therefore executed the letter of authorization allowing Chaneco to pull permits for the East 214th Street Project with his company's name and license number.

13. Nevertheless, respondent Felix Jasso admitted that he did not do any research to ensure that Chaneco, whom he met for a mere 10 minutes, was in fact, the owner of the East 214th Street residence. When asked why he would believe Chaneco's word that she was the owner, respondent Felix Jasso replied, in his words, "Because she was a woman. I respect women."

14. When questioned about whether he had asked Chaneco about what type of supplemental permits she was seeking before he executed the September 26, 2013 letter of authorization, respondent Felix Jasso's answers were equivocal. He at first stated that he did not ask Chaneco about the type of permits. Later, he testified that he "may" have asked Chaneco what the permits were for, but he does not remember.

15. Respondent Felix Jasso averred that the letter of authorization for Chaneco was the only one that he had issued during his 30 years in the contracting business. He denied that he had allowed other individuals whom he believed to be homeowners to pull permits using his company's name and license number. However, when asked why he would make an exception in Chaneco's case, respondent Felix Jasso asserted that he felt sorry for her because of her "physical disability" (his term). When asked to specify this purported physical disability, respondent Felix Jasso claimed that Chaneco suffered from bad breath.

16. Respondent Felix Jasso's testimony regarding the East 214th Street Project is implausible, uncorroborated, and not credible. Although respondent Felix Jasso claimed that the \$200 he received from Chaneco was for an electrical meter permit and a subsequent electrical meter inspection, there is no documentary evidence that such a permit was ever pulled for the East 214th Street Project. Respondent Felix Jasso's testimony at the hearing is also inconsistent with his statements to Investigator Canchola. During his July 23, 2014 interview with Investigator Canchola, respondent made no mention of an electrical meter permit. Moreover, it strains one's credulity to believe that respondent Felix Jasso would execute the September 26, 2013 letter of authorization without verifying that Chaneco, whom he met for a mere 10 minutes, was the owner of the East 214th Street residence simply because she is a woman. Nor is it believable that respondent Felix Jasso would not inquire

about the type of permits that Chaneco had intended to pull with his license simply because she suffered from bad breath.

17. Given these credibility issues, the totality of the evidence established that respondent Felix Jasso executed the September 26, 2013 letter of authorization with the intent to aid and abet Chaneco, an unlicensed contractor, to evade Contractors' State License Laws (Bus. & Prof. Code, § 7000 et seq.) by allowing her to pull permits using respondent Jassos Construction's license.

The La Tuna Canyon Road Project

18. R.L. and his wife, M.G., are the owners of a property located on La Tuna Canyon Road in Sun Valley, California. After purchasing this residence, R.L. noticed that the roof of the house was leaking. He solicited bids from three different contractors. Among these contractors, Sergio Moreno (Moreno), of KCS Easy Help (KCS), submitted the lowest bid.

19. A. On December 9, 2014, R.L. and M.G. entered into a written contract with Moreno. The KCS logo appears on the top left head corner of this this contract. The words "Jasson [sic] Constructuion [sic]" appears underneath the logo, along with "Licensed and Bonded, License #432484b." Although R.L. did not search for the license number on the CSLB website, he felt confident that Moreno was a licensed contractor since the contract stated that his license number was 432484. However, Moreno was not, in fact, licensed by the CSLB.

B. The December 9, 2014 contract between Moreno and R.L. provided that Moreno would remove and replace water damaged plywood from the roof (approximately four sheets); remove and replace approximately 60 linear foot of wood fascia; and install approximately two squares of hot mop roll roofing (90 pound roll roof) and new fiber glass composition shingles (over 30 pound felt; 35 year manufacture warranty, approx. 10 squares) (La Tuna Canyon Road Project). The total contract price was \$6,500.

20. A. On the same day, December 9, 2014, Moreno purportedly subcontracted the La Tuna Canyon Road Project to respondent Jassos Construction. Pursuant to a written agreement with Moreno, respondent Jassos Construction agreed to perform, for the contract price of \$4,200, the following scope of work:

1. Remove and replace water damaged plywood, approx. 4 sheets
2. Install new fiber glass composition shingles over 30lb felt
35 year manufacture warranty, approx. 10 squares
3. Approximately 2 squares of hot mop, 90lb roll roof
4. Remove and replace approximately 60 linear ft. of wood fascia.

(Ex. 3, p. 76.)

B. Thus, respondent Jassos Construction entered into a contract, Moreno, who is an unlicensed contractor.

C. The scope of work that respondent Jassos Construction agreed to perform on the La Tuna Canyon Road Project was related to a single, specialty trade, namely roofing. Respondent Jassos Construction, which is licensed in classification B, general contracting, did not provide services that were of two unrelated trades. Therefore, it contracted outside the scope of its licensed classification by performing work as a specialty license, C-39, roofing contractor.

21. On December 14, 2014, Moreno and two other unidentified workers began to work on the La Tuna Canyon Road Project. No permits were pulled for the jobsite. On December 20, 2014, R.L. gave Moreno a \$4,000 check at his request. As work progressed, R.L. and Moreno discussed a change order to the original contract to include repairs to the garage. Due to this change order, the contract price increased to \$7,930. On January 4, 2015, R.L. gave Moreno another check for \$3,000.

22. Between January 4 and January 7, 2015, R.L. and M.G. became unsatisfied with the progress on the La Tuna Canyon Road Project. Large sections of the roof, including the areas over the living room, the balcony section, and the bedroom wall were left unfinished. When R.L. asked Moreno to repair the balcony and the bedroom walls, Moreno asked for an additional \$3,000, but refused to put the estimate in writing.

23. On January 7, 2015, Moreno stopped working on the La Tuna Canyon Road Project. Portions of the roof, sections of the walls, and the balcony repairs were still unfinished, and no permits were ever obtained from the City of Los Angeles to perform the roofing work on the La Tuna Canyon Road Project. Nevertheless, Moreno gave an invoice, dated the same date, to R.L. and M.G., which indicated that they owed him a balance of \$930. Both “Jasson [sic] Constructuion [sic]” and respondent Jassos Construction’s license number, 423484, appears underneath the KCS logo on the invoice.

24. On January 14, 2015, R.L. wrote a letter to Moreno, detailing the unfinished condition of the La Tuna Canyon Road project and the financial hardship that R.L. and M.G. had undergone because of Moreno’s failure to complete the project as contracted. R.L. demanded:

At this point, I am requesting that you reimburse us the \$7,000, which is more than half of the original price agreed, that you have already been paid for because you did not complete the work. Additionally, you failed to obtain the required city permits for the repairs which had also caused additional financial hardship to my family as I am now required to pay additional fees. I am requesting a response by no later than Monday, January 26, 2015.

(Ex. 3, p. 70.)

25. R.L. also searched for respondent Jassos Construction's license number on the CSLB website and discovered that respondent Felix Jasso is the RMO/CEO/President of respondent Jassos Construction. Thus, he also sent respondent Felix Jasso the same letter demanding reimbursement of \$7,000.

26. Sometime after January 14, 2015, on a date not established by the record, in response to R.L.'s demand letter, respondent Felix Jasso went to the jobsite at the La Tuna Canyon Road Project. He told the homeowners that the balcony was illegally built and must be removed before the roof could be completed. Prior to this visit, respondent Felix Jasso had never appeared at the La Tuna Canyon Road property.

27. Neither Moreno nor respondent Felix Jasso ever reimbursed R.L and M.G. any money. R.L. eventually paid another contractor to complete the work on the La Tuna Canyon Road Project.

28. On January 19, 2015, R.L. filed a complaint with the Board against both KCS and respondent Jassos Construction. The complaint was assigned to Investigator Canchola, who interviewed R.L., Moreno, and respondent Felix Jasso on March 17, 2015. During his interview, R.L. detailed the issues that he had with the La Tuna Canyon Road Project as described above.

29. A. During Moreno's March 17, 2015 interview with Investigator Canchola, he stated that he initially contracted with M.G. to remove and replace the roof at their La Tuna Canyon residence for \$6,500. Later on, M.G. asked him to do work on the roof over the garage, and the contract price increased to \$7,930. Moreno then subcontracted the roof work to respondent Felix Jasso for \$4,200. Moreno told Investigator Canchola that he worked with respondent Felix Jasso on 12 other projects and that respondent Felix Jasso gave him permission to put the business name Jassos Construction and the license number 423484 on the contracts that he negotiates.

B. On March 18, 2015, Moreno signed a declaration under penalty of perjury which stated as follows:

I Sergio Moreno have a contract with [M.G.] of her roofing for the amount of \$6,500 in which the amount went up to the sum of \$7,900.

And I subcontracted the [respondent] Jasso Construction Company to carry out the work of roofing installation for the [La Tuna Canyon Road Project].

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[Respondent] Felix Jasson [sic] knows that the license number (423484) is to be “placed when one is subcontracted for a construction job.

(Ex. 3, p. 74. Translated from the original Spanish into English by Mr. Porras, Certified Court Interpreter.)

30. A. During respondent Felix Jasso’s March 17, 2015 interview with Investigator Canchola, he stated that he was hired by Moreno to remove, dump and replace the roof at the La Tuna Canyon Road Project for \$4,200. Respondent Felix Jasso claimed that he brought the materials and the workers to the jobsite and that it took him one day to remove and replace the roof. He also claimed that he advised the homeowners on the same day that the balcony was illegally built and that the roof could only be completed once the illegal additions were removed. Respondent Felix Jasso asserted to Canchola that he did not know whether Moreno is a CSLB licensee, but he did not give Moreno authority to use his business name or his CSLB license number on Moreno’s contracts.

B. On March 19, 2015, respondent Felix Jasso signed a declaration under penalty of perjury which stated, “I did not give KCS Easy Help or Sergio Moreno permission to use my license or my name.” (Ex. 3, p. 77.)

Respondent Felix Jasso’s Testimony Regarding the La Tuna Canyon Road Project

31. At the hearing, with respect to the La Tuna Canyon Road Project, respondent Felix Jasso testified that he subcontracted with Moreno to perform the roof work on the La Tuna Canyon Road Project. He claimed that he performed all the work described in the December 9, 2014 subcontract in one day, on December 9, 2014. Respondent Felix Jasso also claimed that he worked on the jobsite himself, and that he told R.L. the job could not be completed due to illegal balcony additions. Respondent Felix Jasso reported that when he left the project on December 9, 2014, a portion of the roof at the La Tuna Canyon Road residence was left incomplete.

32. Respondent Felix Jasso asserted that although he had worked with Moreno on other projects, he did not know that Moreno was an unlicensed contractor because Moreno held himself out as an engineer. Nevertheless, respondent Felix Jasso never asked for Moreno’s credentials as an engineer, nor did he ever perform any research to check on Moreno’s license status with the CSLB.

33. Respondent Felix Jasso admitted that he did not pull any permits on the La Tuna Canyon Road Project, but claimed to be under the belief that Moreno was the owner of the residence. However, according to respondent Felix Jasso, he realized that R.L. was the owner of the residence when he worked at the jobsite on December 9, 2014. Nevertheless, even after learning that Moreno was not the owner of the residence, respondent Felix Jasso made no attempts to pull any permits for the La Tuna Canyon Road Project.

34. Respondent’s testimony regarding the La Tuna Canyon Road Project directly contradicted R.L.’s testimony. R.L., testified that work did not begin on the La Tuna

Canyon Road Project until December 14, 2014, and that Moreno and other unidentified workers were on the job site. R.L. also testified that he did not have any contact with respondent Felix Jasso until sometime after he sent the demand letter sometime on January 14, 2015. R.L.'s testimony is deemed to be more credible than that of respondent Felix Jasso because it is consistent with R.L.'s prior statements to Investigator Canchola and the documentary evidence in this case. The documentary evidence shows that R.L. wrote a \$4,000 check to Moreno on December 20, 2014, and a \$3,000 check to Moreno on January 4, 2015. It defies logic to believe that R.L. would pay \$7,000 to Moreno on these dates, if, earlier, on December 9, 2014, respondent Felix Jasso had already worked on the La Tuna Canyon Road Project, left a portion of roof incomplete, and informed R.L. that the work could not be completed due to the illegal balcony additions.

35. On cross-examination, when shown Moreno's March 18, 2015 declaration, respondent Felix Jasso denied any awareness of Moreno using respondent Jassos Construction's name and license. However, respondent Felix Jasso's credibility on this issue is negatively impacted by the fact that, when asked about any prior instances of allowing others to use his contractor's license, respondent Felix Jasso stated that he does not recall any similar incidents. As set forth below in Factual Finding 38, respondent Jassos Construction was previously cited by the Board for allowing respondent Felix Jasso's brother, an unlicensed contractor, to use his license to pull permits.

Prior Discipline

36. Respondent Jassos Construction was previously cited three times for violations of the Contractors' State License Law.

37. A. On October 17, 1984, the Board issued administrative Citation No. CIT-140036 to respondent Jassos Construction. The citation alleged violations of Business and Professions Code sections 7109, subdivision (a) (departure from accepted trade standards), 7113 (exceeded contract amount), and 7159 (home improvement contract violations).

B. The facts and circumstances surrounding this citation are as follows: On October 20, 1982, respondent Jassos Construction entered into a written contract with homeowner C.M. to repair fire damage and construct new kitchen cabinets and countertops at her residence on Marmion Way in Los Angeles, California, for \$13,000. Work began on or about October 30, 1982, and was last performed by respondent Jassos Construction on October 31, 1983. Respondent Jassos Construction was paid \$9,600 on the project. The homeowner paid \$6,100 to another contractor to complete and correct respondent Jassos Construction's defective work.

C. The citation is final and assessed respondent Jassos Construction a \$500 administrative fine, which was paid.

38. A. On January 23, 2002, the Board issued administrative Citation No. 220012144 to respondent Jassos Construction. The citation alleged violations of Business and Professions Code section 7114 (aiding and abetting unlicensed contracting).

B. The facts and circumstances surrounding this citation are as follows: In or about 2000, respondent Felix Jasso presented himself to homeowner A.S. to prepare a bid for a job to remodel a residence located on South 7th Street in Alhambra, California (South 7th Street Project). While waiting for a down payment, he sent his brother A.J. to pull permits for the South 7th Street Project. A.J. was not registered with the Board as a home improvement salesperson for respondent Jassos Construction. A.J. used respondent Jassos Construction's name and license to pull permits for the South 7th Street Project. In a declaration under penalty of perjury, respondent Felix Jasso certified that he gave authorization to his brother A.J. to pull permits for the South 7th Street Project.

C. The citation is final and assessed respondent Jassos Construction a \$500 administrative fine, which was paid.

39. A. On January 15, 2004, the Board issued administrative Citation No. 2 2003 2161 to respondent Jassos Construction. The citation alleged violations of Business and Professions Code sections 7030 (no notice re CSLB investigation authority), 7030, subdivision (b) (no notice re CSLB licensing requirement), 7109, subdivision (a) (departure from accepted trade standards, 7113 (exceeded contract amount), 7117, subdivision (A) (name style variation), and 7159 (home improvement contract violations).

B. The facts and circumstances surrounding this citation are as follows: On September 27, 2002, respondent Jassos Construction entered into a written contract with homeowner A.S. to correct and complete a home remodeling project started by an unlicensed contractor at a residence located on South Ethel Street in Alhambra, California, for \$4,700. Work began on October 8, 2002, and ended on November 23, 2002. Respondent Jassos Construction was paid \$4,600 less \$100 for incomplete electrical work. An industry expert inspected the project and estimated that the cost to complete and correct respondent Jassos Construction's work was \$2,550.

C. The citation is final and assessed respondent Jassos Construction a modified \$950 administrative fine and payment of \$2,450 in homeowner restitution, both of which were paid.

Costs

40. Complainant submitted cost certifications, requesting reimbursement to the Board for a total of \$10,402.46 for the costs of investigation and enforcement in this matter. This total amount consists of the costs incurred for the investigation, including 22.83 hours of investigative work by a Consumer Services Representative, an Enforcement Representative, and an industry expert for a subtotal of \$1,809.96, and the costs for 57.75 hours of legal services provided by the Attorney General's office for a subtotal of \$8,592.50.

41. No evidence was presented regarding respondent Jassos Construction's ability to pay these costs.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The standard of proof for the Board to prevail on the Accusation is clear and convincing evidence to a reasonable certainty. (Bus. & Prof. Code, § 7090; *Owen v. Sands* (2009) 176 Cal.App.4th 985, 990.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

Causes for Discipline against Respondent Jassos Construction

2. Pursuant to Business and Professions Code section 7090, a contractor's license may be suspended or revoked if the licensee commits any one or more of the acts or omissions constituting causes for disciplinary action.

3. Cause exists to discipline the contractor's license issued to respondent Jassos Construction, pursuant to Business and Professions Code sections 125 and 7114, in that on the East 214th Street Project, respondent Felix Jasso, acting as the RMO/CEO/President of respondent Jassos Construction, aided and abetted unlicensed individuals to evade the Contractors' State License Law. (Factual Findings 5 to 9 and 12 to 17.)

4. Cause exists to discipline the contractor's license issued to respondent Jassos Construction, pursuant to Business and Professions Code section 7110, in that on the La Tuna Canyon Road Project, respondent Felix Jasso, acting as the RMO/CEO/President of respondent Jassos Construction, willfully or deliberately disregarded and violated the City of Los Angeles's building code by failing to obtain a permit for the roof rebuild. (Factual Findings 18 to 20 and 33.)

5. Cause exists to discipline the contractor's license issued to respondent Jassos Construction, pursuant to Business and Professions Code sections 7117.6, 7059, and California Code of Regulations title 16, sections 830, 832, and 832.39, in that on the La Tuna Canyon Road Project, respondent Felix Jasso, acting as the RMO/CEO/President of respondent Jassos Construction, contracted outside the scope of its licensed classification by performing work as a specialty license C-39, roofing contractor, when it was licensed only as a B, general building contractor. Respondent Jassos Construction, as a classification B general contractor, provided services that were not of two unrelated trades. (Factual Findings 18 to 20.)

6. Cause exists to discipline the contractor's license issued to respondent Jassos Construction, pursuant to Business and Professions Code section 7118, in that on the La Tuna Canyon Road Project, respondent Felix Jasso, acting as the RMO/CEO/President of respondent Jassos Construction, entered into a contract with Moreno, who was not a contractor licensed by the Board. (Factual Findings 18 to 20.)

Disciplinary Action against Respondent Jassos Construction

7. Pursuant to California Code of Regulations, title 16, section 871, the Board has adopted Disciplinary Guidelines (Guidelines), which set forth the following factors to be considered when determining the appropriate discipline for violations of the Contractors' State License Law: (1) nature and severity of the act(s), offenses, or crime(s) under consideration; (2) actual or potential harm to the public; (3) performed work that was potentially hazardous to the health, safety, or general welfare of the public; (4) prior disciplinary record; (5) number and/or variety of current violations; (6) mitigation evidence; (7) rehabilitation evidence; (8) in case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation. (Guidelines, p. 1.)

8. The Guidelines also include maximum and minimum recommended penalties for specific statutory violations. For a violation of Business and Professions Code sections 7110 (willful or deliberate disregard and violation of building laws), 7114 (aiding and abetting an unlicensed contractor), and 7118 (contracting with an unlicensed person), the maximum recommended penalty is revocation and the minimum penalty is two years of probation. For violations of Business and Professions Code section 7117.6 (contracting out of classification), the maximum recommended penalty is revocation and the minimum penalty is 60 days of suspension, stayed, and one year of probation.

9. Applying the Guidelines' recommended penalties and rehabilitation criteria to the instant case, revocation of the license issued to respondent Jassos Construction is warranted. In this case, four separate causes for discipline were established against respondent Jassos Construction, and many of the violations are serious in nature. In particular, on the La Tuna Canyon Road Project, respondent Jassos Construction contracted with an unlicensed contractor, failed to obtain building permits before commencing work, and contracted out of his licensed classification. These violations resulted in actual harm to the consumer and are potentially hazardous to the health, safety, or general welfare of the public. It is even more concerning that respondent Jassos Construction has a record of prior discipline consisting of three citations. One of these citations from 2000, relating to the South 7th Street Project, involves aiding and abetting unlicensed individuals to evade the Contractors' State License Law, the same misconduct for which respondent Jassos Construction is being disciplined on the East 214th Street Project. Additionally, respondent Felix Jasso was not remorseful for his misdeeds, and he was not candid in his testimony at the hearing.

The purpose of the Contractors' License Law is to protect the public from incompetence and dishonesty in those who provide building and construction services. (*Viking Pool, Inc. v. Maloney* (1989) 48 Cal.3d 602, 608-608.) The licensing requirements provide minimal assurance that all persons offering services have the requisite skill, character, understanding of applicable laws and codes, and knowledge of the basics of conducting a contracting business. (*Home Depot, U.S.A., Inc. v. Contractors' State License Bd.* (1996) 41 Cal.App. 4th 1592, 1598.) Respondent Felix Jasso's misconduct and his lack of candor at the hearing

demonstrate that he does not possess the requisite honesty and character necessary for continued licensure by the Board. Moreover, clear and convincing evidence of respondent Felix Jasso's willful circumvention of the building laws intended to prevent harm to the public on the La Tuna Canyon Road Project is a further indication of his incompetence and dishonesty. Such disregard of the law is a grave offense outweighing any evidence of mitigation or rehabilitation. Consequently, protection of the public requires the revocation of the contractor's license issued to respondent Jassos Construction, for which Felix Jasso acts as the RMO/CEO/President.

Disciplinary Action against Savon Construction

10. Respondent Felix Jasso currently holds a CSLB license as RMM of Savon Construction. As set forth in Factual Finding 4, this license was cancelled on November 30, 2016.

11. Business and Professions Code section 118, subdivision (b), provides, in pertinent part, that the cancellation of a license shall not deprive the Registrar of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Business and Professions Code section 7076.1, the Registrar may reinstate a cancelled license if the licensee pays all of the fees and meets all of the qualifications and requirements for obtaining an original license. Thus, the Board retains continuing jurisdiction to discipline Savon Construction's license even if it is expired, cancelled, or inactive.

12. Business and Professions Code sections 7097 and 7098 provide that when any license has been suspended or revoked following a hearing, the Registrar may suspend or revoke any additional license issued in the name of the licensee or for which the licensee furnished qualifying experience and appearance under the provisions of section 7068, without further notice. Therefore, any other license for which respondent Felix Jasso has furnished qualifying experience and appearance shall be revoked.

13. In this case, respondent Felix Jasso is the qualifying individual for Savon Construction as its RMM. Additionally, respondent Garcia, who is a member of Savon Construction, did not appear at the hearing to offer a defense. Thus, Savon Construction's license also shall be revoked.

Disciplinary Action against Officers and Qualifying Individuals

14. Pursuant to Business and Professions Code section 7121, a person whose license has been revoked, 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 revoked, shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of a CSLB licensee.

15. Since respondent Jassos Construction's license is subject to revocation for the reasons set forth in Legal Conclusions 3 to 6, pursuant to Business and Professions Code section 7121, respondent Felix Jasso is prohibited from serving as an officer, director, associate, partner, or qualifying individual of a CSLB licensee, as he participated in the prohibits acts for which respondent Jassos Construction's license is being revoked.

16. Pursuant to Business and Professions Code section 7121, respondents Felix Jasso Jr., Eliseo Jimenez, and Rafael Jimenez are also prohibited from serving as officers, directors, associates, partners, or qualifying individuals of a CSLB licensee. With respect to respondent Felix Jasso Jr., no evidence was presented of his knowledge of or participation in the East 214th Street Project or the La Tuna Canyon Road Project. Respondents Eliseo Jimenez and Rafael Jimenez did not appear at the hearing to offer a defense. As officers of respondent Jassos Construction, respondents Felix Jasso Jr., Eliseo Jimenez, and Rafael Jimenez are imputed with knowledge of the acts for which respondent Jassos Construction's license is being revoked.

Restitution

17. Complainant seeks restitution on behalf of homeowner M.C. on the East 214th Street Project pursuant to Business and Professions Code section 7114, which provides:

- (a) Aiding or abetting an unlicensed person to evade the provisions of this chapter or combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter constitutes a cause for disciplinary action.
- (b) A licensee who is found by the registrar to have violated subdivision (a) shall, in accordance with the provisions of this article, be subject to the registrar's authority to order payment of a specified sum to an injured party, including, but not limited to, payment for any injury resulting from the acts of the unlicensed person.

18. In this case, as set forth in Legal Conclusion 3, respondent Jassos Construction was found to have violated Business and Professions Code section 7114, subdivision (a). However, set forth in Factual Findings 5 and 11, the evidentiary issues in this case, including the lack of direct evidence in the form of testimonies from M.C. and Chaneco, preclude a finding that M.C.'s injuries on the East 214th Street Project were a result of the acts of the unlicensed person, Chaneco. Therefore, no restitution shall be ordered.

Costs

19. Pursuant to Business and Professions Code section 125.3, complainant is entitled to recover the reasonable costs of prosecution and enforcement of this matter. As set forth in Factual Finding 37, complainant has requested costs in the amount of \$10,402.46. These costs are reasonable.

20. The Board is required to consider a respondent's ability to pay in this type of administrative proceeding. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) However, no evidence was presented to warrant the reduction of costs against respondent Jassos Construction. Consequently, respondent Jassos Construction shall be ordered to pay the Registrar its full costs of investigation and prosecution.

ORDER

1. Contractor's License No. 423484, in Classification B, and accompanying licensing rights, issued to Jassos Construction Inc., Felix Jasso, RMO/CEO/President, Felix Jasso Jr., Officer, Eliseo Jimenez, Officer, Rafael Jimenez, Officer, is revoked.

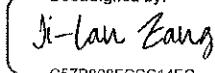
2. Contractor's License No. 998752, in Classification B, and accompanying licensing rights, issued to Savon Solar LLC, doing business as Savon Construction, Felix Jasso, Responsible Managing Member, Rafael Garcia, Member, is revoked.

3. Any other license for which respondent Felix Jasso has furnished qualifying experience and appearance is also revoked.

4. Respondents Felix Jasso Jr., Eliseo Jimenez, and Rafael Jimenez are prohibited from serving as an officer, director, associate, partner or qualifying individual of any licensee under the Registrar's jurisdiction.

5. Jassos Construction Inc., Felix Jasso, RMO/CEO/President, Felix Jasso Jr., Officer, Eliseo Jimenez, Officer, Rafael Jimenez, Officer, shall pay to the Registrar its costs of investigation and prosecution in the amount totaling \$10,402.46.

Dated: December 22, 2017

DocuSigned by:

JI-LAN ZANG
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JI-LAN ZANG
Administrative Law Judge
Office of Administrative Hearings