

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-1349
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. N2015-489

13 **PLUMBING TECH SEWER & REPIPE**
INC.

14 **278 E. Gish Road**
San Jose, CA 95112

15 **Felix Abayomi Akindayomi, RMO**

16 **Sergio Arturo Aguilar Castillo,**

CEO/President (Disassoc. 9/30/15)

17 **Jamie Macias, CEO/President (Disassoc.**
2/19/16)

18 **Harold Cao Nguyen, Officer (Disassoc.**
3/24/14)

19 **Anthony Hoan Cao Nguyen (Undisclosed)**

20 **Contractor License No. 980475 (Expired**
3/10/16)

21 **Affiliated License:**

22 **Flex Heating / Air**

23 **5820 Stockton Bl. #6**

Sacramento, CA 95824

24 **Felix Abayomi Akindayomi, Sole Owner**

25 **Contractor License No. 887469 (Expired**
11/30/16)

26 Respondent.

ACCUSATION

1 Complainant alleges:

2 PARTIES

3 1. Wood Robinson (“Complainant”) brings this Accusation solely in his official capacity
4 as the Enforcement Supervisor I of the Contractors’ State License Board, Department of
5 Consumer Affairs.

6 2. On or about January 18, 2013, the Registrar of Contractors issued Contractor License
7 Number 980475 (C20 and C36) to Plumbing Tech Sewer & Repipe Inc. (“Respondent”). The
8 Contractor License was cancelled on March 10, 2016, and has not been renewed.

9 JURISDICTION

10 3. This Accusation is brought before the Registrar of Contractors (“Registrar”) for the
11 Contractors’ State License Board, Department of Consumer Affairs, under the authority of the
12 following laws. All section references are to the Business and Professions Code unless otherwise
13 indicated.

14 4. Section 118 states, in part:

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

22 5. Section 7090 states, in part:

23 “The registrar may upon his or her own motion and shall upon the verified complaint in
24 writing of any person, investigate the actions of any applicant, contractor, or home improvement
25 salesperson within the state and may deny the licensure or the renewal of licensure of, or cite,
26 temporarily suspend, or permanently revoke any license or registration if the applicant, licensee,

27 ////

28 ////

1 or registrant, is guilty of or commits any one or more of the acts or omissions constituting causes
2 for disciplinary action.

3”

4 6. Section 7095 states:

5 “The decision may:

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

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

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

14 7. Section 7097 states:

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

20 8. Section 7098 states:

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

25 9. Section 7121.5 states:

26 “A person who was the qualifying individual on a revoked license, or of a license under
27 suspension, or of a license that was not renewed while it was under suspension, shall be
28 prohibited from serving as an officer, director, associate, partner, manager, or qualifying

1 individual of a licensee, whether or not the individual had knowledge of or participated in the
2 prohibited acts or omissions for which the license was revoked, or suspended, and the
3 employment, election, or association of that person by a licensee shall constitute grounds for
4 disciplinary action.”

5 10. Section 7122 states:

6 “The performance by an individual, partnership, corporation, limited liability company,
7 firm, or association of an act or omission constituting a cause for disciplinary action, likewise
8 constitutes a cause for disciplinary action against a licensee other than the individual qualifying
9 on behalf of the individual or entity, if the licensee was a partner, officer, director, manager, or
10 associate of that individual, partnership, corporation, limited liability company, firm, or
11 association at the time the act or omission occurred, and had knowledge of or participated in the
12 prohibited act or omission.”

13 11. Section 7122.5 states:

14 “The performance by an individual, partnership, corporation, limited liability company,
15 firm, or association of an act or omission constituting a cause for disciplinary action, likewise
16 constitutes a cause for disciplinary action against a licensee who at the time that the act or
17 omission occurred was the qualifying individual of that individual, partnership, corporation,
18 limited liability company, firm, or association, whether or not he or she had knowledge of or
19 participated in the prohibited act or omission.”

20 RELEVANT STATUTES

21 12. Section 7068.1 states:

22 “(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3),
23 or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision
24 and control of his or her employer’s or principal’s construction operations to secure compliance
25 with this chapter and the rules and regulations of the board. This person shall not act in the
26 capacity of the qualifying person for an additional individual or firm unless one of the following
27 conditions exists:
28

1 “(1) There is a common ownership of at least 20 percent of the equity of each individual or
2 firm for which the person acts in a qualifying capacity.

3 “(2) The additional firm is a subsidiary of or a joint venture with the first. ‘Subsidiary,’ as
4 used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the
5 other firm.

6 “(3) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section
7 7068, the majority of the partners, officers, or managers are the same.

8 “(b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (a), a qualifying
9 individual may act as the qualifier for no more than three firms in any one-year period.

10 “(c) The following definitions shall apply for purposes of this section:

11 “(1) ‘Firm’ means a partnership, a limited partnership, a corporation, a limited liability
12 company, or any other combination or organization described in Section 7068.

13 “(2) ‘Person’ is limited to natural persons, notwithstanding the definition of ‘person’ in
14 Section 7025.

15 “(d) The board shall require every applicant or licensee qualifying by the appearance of a
16 qualifying individual to submit detailed information on the qualifying individual’s duties and
17 responsibilities for supervision and control of the applicant’s construction operations.

18 “(e) Violation of this section shall constitute a cause for disciplinary action and shall be
19 punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine
20 of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000),
21 or by both the fine and imprisonment.”

22 13. Section 7112 states:

23 “Omission or misrepresentation of a material fact by an applicant or a licensee in obtaining,
24 or renewing a license, or in adding a classification to an existing license constitutes a cause for
25 disciplinary action.”

26 ////

27 ////

28 ////

1 14. Section 7117, subdivision (b) states:

2 “Acting in the capacity of a contractor under any license issued hereunder except: . . . (b) in
3 accordance with the personnel of the licensee as set forth in the application for such license, or as
4 later changed as provided in this chapter, constitutes a cause for disciplinary action.”

5 COST RECOVERY

6 15. Section 125.3 states, in part, that the Board may request the administrative law judge
7 to direct a licentiate found to have committed a violation or violations of the licensing act to pay a
8 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
9 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
10 case settles, recovery of investigation and enforcement costs may be included in a stipulated
11 settlement.

12 FACTUAL BACKGROUND

13 *Respondent is Established as an Unlicensed Contracting Company*

14 16. In or about March 2010, Anthony Hoan Cao Nguyen (“Nguyen”) established
15 Respondent, a full-service plumbing company, at the time called “Sonic Rooter.” As Sonic
16 Rooter, Nguyen advertised and provided plumbing services, including rooter, general repairs,
17 replacement of gas and/or water lines, and trenchless sewer replacement. These activities were
18 conducted without a contractor license. On or about April 3, 2012, the Board issued Nguyen a
19 Violation Warning for Advertising as a Contractor Without a License (Bus. & Prof. Code §
20 7027.1).

21 *Respondent Obtains Licenses under False Pretenses*

22 17. On December 14, 2012, Respondent submitted to the Board applications for C20 and
23 C36 licensure and an application for exemption from workers’ compensation. These applications
24 list Felix Abayomi Akindayomi (“Akindayomi”) as the qualifying individual; Nguyen’s wife,
25 Jamie Macias, as Respondent’s Treasurer/President; and Nguyen’s brother, Harold Cao Nguyen,
26 as Respondent’s Secretary. Nguyen was not listed on the application due to a prior felony
27 conviction.

1 18. Nguyen and Respondent knew at the time of these applications that Akindayomi and
2 Ms. Macia would not play the role of qualified individual and Treasurer/President, respectively.
3 Ms. Macias' involvement with Respondent's operations ended in 2011, and Nguyen and
4 Akindayomi had a prior agreement that Akindayomi would serve only on paper as a qualifying
5 individual.

6 19. In particular, Nguyen met Akindayomi in 2011 through an entity specializing in
7 connecting would-be contractors who cannot meet licensing requirements with current licensed
8 contractors. Nguyen and Akindayomi subsequently signed a written agreement to allow Nguyen
9 to use Akindayomi's contractor license for \$300.00 per month. The parties' intent in executing
10 this agreement was to permit Nguyen to use Akindayomi's contractor license in exchange for
11 payment to Akindayomi, and without any oversight or other involvement by Akindayomi in
12 Respondent's operations.

13 20. Pursuant to Respondent's applications, on or about January 18, 2013, the Board
14 issued license number 980475 (C20 and C36) to Respondent, listing Akindayomi as RMO.
15 According to Nguyen, Akindayomi had no involvement in Respondent's operations, except to
16 sign documents, which was usually done via email.

17 **Nguyen Sells the Use of Respondent's Name and License to Another Unlicensed Individual**

18 21. On or about March 7, 2014, Nguyen entered into a written contract titled "Royalty
19 Agreement" with Sergio Aguilar Castillo ("Castillo"). The Royalty Agreement provided Castillo
20 with the "right to use [Respondent's] name and license" and the role of President of Respondent
21 in exchange for Castillo's payment to Nguyen of \$25,000 as a down payment and \$7,000 per
22 month "for the life of the company." At the time, Castillo was already running an unlicensed
23 contracting company called "Plumbing Tech Sewer & Repipe Inc." Castillo was not a licensed
24 contractor, and had previously failed the Board's licensing examination.

25 22. On or about April 23, 2014, Respondent submitted applications to add Castillo as
26 Respondent's President and change Respondent's name from "Sonic Rooter" to "Plumbing Tech
27 Sewer & Repipe Inc." These applications were signed by Akindayomi at Nguyen's instruction, at
28 Castillo's direction. It was Castillo's decision to change Respondent's name from "Sonic Rooter"

1 to "Plumbing Tech Sewer & Repipe Inc." to maintain continuity with his other unlicensed
2 contracting business named "Plumbing Tech Sewer & Repipe Inc." Presumably, Castillo
3 believed that, by naming Respondent "Plumbing Tech Sewer & Repipe Inc.," Respondent's
4 license would shield his prior business from claims that it was operating without a license.

5 23. Akindayomi never met Castillo, and was not aware of the Royalty Agreement or any
6 details of that agreement. Similarly, Castillo never met with or discussed Respondent's
7 operations with Jamie Macias or Harold Cao Nguyen.

8 24. In October 2014, Castillo informed Nguyen that the Board has received two
9 complaints regarding Respondent, and that he (Castillo) needed to discuss the complaints with
10 Akindayomi. Nguyen instructed Castillo to settle the complaints, and did not disclose them to
11 Akindayomi. When two additional complaints were submitted to the Board in January and April
12 2015, Nguyen also did not inform Akindayomi. Akindayomi did not learn about these complaints
13 until he was asked about them by a Board investigator.

14 FIRST CAUSE FOR DISCIPLINE

15 (Failure to Comply with Responsibilities of Personal Qualifying on Behalf of Firm)
16 (Bus. & Prof. Code § 7068.1, subds. (a) and (e))

17 25. Respondent has subjected its Contractor License to disciplinary action because the
18 person qualifying on behalf of Respondent was not responsible for exercising that direct
19 supervision and control of Respondent's construction operations to secure compliance with the
20 Contractors' State License Law (Bus. & Prof. Code § 7000 *et seq.*) and relevant rules and
21 regulations. The circumstances are set forth in paragraphs 10 through 18, above.

22 SECOND CAUSE FOR DISCIPLINE

23 (Omission or Misrepresentation in Obtaining License or Adding Classification)
24 (Bus. & Prof. Code § 7112)

25 26. Respondent has subjected its Contractor License to disciplinary action based the
26 omissions or misrepresentations of material facts, by Respondent in its application to obtain
27 licensure and add classifications. (Bus. & Prof. Code § 7112). In particular, Respondent omitted
28 and/or misrepresented in applications it submitted to the Board the actual role of Nguyen, Macias,
Akindayomi, and Castillo. The circumstances are set forth in paragraphs 11 through 18, above.

////

1 5. Ordering Respondent to provide the Registrar with a listing of all contracting projects
2 in progress and the anticipated completion date of each; and

3 6. Taking such other and further action as deemed necessary and proper.
4

5
6 DATED: 06/21/17


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

(VLS)

7
8 **FILED**
9 JUN 21 2017
10 **CSLB DSS**

11 SF2017202650