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7

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

13 In the Matter of the Accusation Against:

Case No. N2017-287

14 **GREEN LIVING CA**
2321 Torrance Blvd, Ste. B
15 Torrance, CA 90501
16 SHAI RUBEN ADES, RMO/CEO/PRES

ACCUSATION

Contractor's License No. 1017009

Respondent.

17 **SHAI RUBEN ADES**
2321 Torrance Blvd.
18 Torrance, CA 90501
19 Home Improvement Salesperson License No.
83394 SP

Affiliated Party.

20
21
22
23 Complainant alleges:

24 **PARTIES**

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

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1 **License Histories**

2 Green Living CA

3 2. On or about August 8, 2016, the Registrar of Contractors (Registrar) issued
4 Contractor's License No. 1017009 to Green Living CA, Shai Ruben Ades, RMO/CEO/PRES
5 (Respondent). The Contractor's License was in full force and effect at all times relevant to the
6 charges brought herein and will expire on August 31, 2018, unless renewed.

7 Shai Ruben Ades

8 3. On or about June 5, 2010, the Registrar issued Home Improvement Salesperson
9 License No. 83394 SP to Shai Ruben Ades (Affiliated Party). The Home Improvement
10 Salesperson License was in full force and effect at all times relevant to the charges brought herein
11 and will expire on June 30, 2019, unless renewed.

12 **JURISDICTION**

13 4. This Accusation is brought before the Registrar for the Board, under the authority of
14 the following laws. All section references are to the Business and Professions Code unless
15 otherwise indicated.

16 5. Section 118, subdivision (b), provides that the expiration of a license shall not deprive
17 the Registrar of jurisdiction to proceed with a disciplinary action during the period within which
18 the license may be renewed, restored, reissued or reinstated. Under section 7076.1, the Registrar
19 may reinstate a cancelled license if the licensee pays all of the fees and meets all of the
20 qualifications and requirements for obtaining an original license.

21 6. Section 7076.5 provides that the inactive status of a license shall not bar any
22 disciplinary action for violating provisions of the Contractors' State License Law (Bus. & Prof.
23 Code, ' 7000, et seq.).

24 7. Section 7090 provides that the Registrar may suspend or revoke any license or
25 registration if the licensee or registrant is guilty of or commits any one or more of the acts or
26 omissions constituting cause for disciplinary action.

27 8. Section 7095 states that the Registrar in making his order may:

28 "(a) Provide for the immediate complete suspension by the licensee of all operations as a

1 contractor during the period fixed by the decision.

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

4 “(c) Impose upon the licensee compliance with such specific conditions as may be just in
5 connection with its operations as a contractor disclosed at the hearing, and may further provide
6 that until such conditions are complied with, no application for restoration of the suspended or
7 revoked licensee shall be accepted by the Registrar.”

8 9. Sections 7097 and 7098 provides that when any license has been suspended or
9 revoked following a hearing, the Registrar may suspend or revoke any additional license issued in
10 the name of the licensee or for which the licensee furnished qualifying experience and appearance
11 under the provisions of 7068, without further notice.

12 10. Section 7106.5 provides that the expiration, cancellation, forfeiture, or suspension of a
13 license by operation of law or by order or decision of the registrar, or a court of law, or the
14 voluntary surrender of the license shall not deprive the registrar of jurisdiction to proceed with any
15 investigation of or action or disciplinary proceeding against the license, or to render a decision
16 suspending or revoking the license.

17 11. Section 7121 states:

18 “A person who has been denied a license for a reason other than failure to document
19 sufficient satisfactory experience for a supplemental classification for an existing license, or who
20 has had his or her license revoked, or whose license is under suspension, or who has failed to
21 renew his or her license while it was under suspension, or who has been a partner, officer, director,
22 manager, or associate of any partnership, corporation, limited liability company, firm, or
23 association whose application for a license has been denied for a reason other than failure to
24 document sufficient satisfactory experience for a supplemental classification for an existing license,
25 or whose license has been revoked, or whose license is under suspension, or who has failed to
26 renew a license while it was under suspension, and while acting as a partner, officer, director,
27 manager, or associate had knowledge of or participated in any of the prohibited acts for which the
28 license was denied, suspended, or revoked, shall be prohibited from serving as an officer, director,

1 associate, partner, manager, qualifying individual, or member of the personnel of record of a
2 licensee, and the employment, election, or association of this type of person by a licensee in any
3 capacity other than as a nonsupervising bona fide employee shall constitute grounds for
4 disciplinary action.”

5 12. Section 7121.5 states:

6 “A person who was the qualifying individual on a revoked license, or of a license under
7 suspension, or of a license that was not renewed while it was under suspension, shall be prohibited
8 from serving as an officer, director, associate, partner, manager, or qualifying individual of a
9 licensee, whether or not the individual had knowledge of or participated in the prohibited acts or
10 omissions for which the license was revoked, or suspended, and the employment, election, or
11 association of that person by a licensee shall constitute grounds for disciplinary action.”

12 13. Section 7122 states:

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

19 14. Section 7122.5 states:

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

26 **STATUTORY PROVISIONS**

27 15. Section 7068.1 states:

28 “(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2),

1 (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct
2 supervision and control of his or her employer's or principal's construction operations to secure
3 compliance with this chapter [Contractors' State License Law] and the rules and regulations of the
4 board. This person shall not act in the capacity of the qualifying person for an additional individual
5 or firm unless one of the following conditions exists:

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

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

11 “(3) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section
12 7068, the majority of the partners, officers, or managers are the same.

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

15 “(c) The following definitions shall apply for purposes of this section:(1) ‘Firm’ means a
16 partnership, a limited partnership, a corporation, a limited liability company, or any other
17 combination or organization described in Section 7068.(2) ‘Person’ is limited to natural persons,
18 notwithstanding the definition of ‘person’ in Section 7025.

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

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

26 16. Section 7117 of the Code states that “[a]cting in the capacity of a contractor under any
27 license issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b)
28 in accordance with the personnel of the licensee as set forth in the application for such license, or

1 as later changed as provided in this chapter, constitutes a cause for disciplinary action."

2 17. Section 7117.6 states that "[a]cting in the capacity of a contractor in a classification
3 other than that currently held by the licensee constitutes a cause for disciplinary action."

4 18. Section 7125.4 states:

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

11 "(b) Any qualifier for a license who, under Section 7068.1 is responsible for assuring
12 that a licensee complies with the provisions of this chapter [Contractors' State License Law], is
13 also guilty of a misdemeanor for committing or failing to prevent the commission of any of the acts
14 that are cause for disciplinary action under this section"

15 19. Section 7154 states:

16 "(a) A home improvement contractor licensed under this chapter shall notify the registrar in
17 writing, on a form prescribed by the registrar, about the employment of a registered home
18 improvement salesperson, pursuant to the terms of this article. This notification requirement shall
19 include, but not be limited to, the name and registration number of the home improvement
20 salesperson who is employed by the contractor. The form shall be submitted prior to the home
21 improvement salesperson beginning work for the contractor.

22 "(b) A home improvement contractor shall notify the registrar in writing, on a form
23 prescribed by the registrar, when a registered home improvement salesperson ceases to be
24 employed by the contractor. This notification requirement shall include, but not be limited to, the
25 name and registration number of the home improvement salesperson who had been employed by
26 the contractor. The form shall be submitted within 90 days after the home improvement
27 salesperson ceases to be employed by the contractor.

28 "(c) A home improvement contractor who employs a registered home improvement

1 salesperson to sell home improvement contracts, but who fails to report to the registrar pursuant
2 to subdivision (a) or (b), is subject to disciplinary action by the registrar.

3 “(d) A home improvement contractor who employs a person to sell home improvement
4 contracts while that person is not registered by the registrar as a home improvement salesperson as
5 provided in this article, is subject to disciplinary action by the registrar.”

6 20. Section 7159 states, in pertinent part:

7 “(a)

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

11

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

15

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

20

21 “(10) The contract shall address the commencement of work to be performed in substantially
22 the following form:

23

24 “(C) The approximate date on which work will be commenced. . . .”

25 **LICENSE CLASSIFICATIONS**

26 21. Section 7055 states:

27 For the purpose of classification, the contracting business includes any or all of the following
28 branches:

1 “(a) General engineering contracting.

2 “(b) General building contracting.

3 “(c) Specialty contracting.”

4 22. Section 7057 states:

5 “(a) Except as provided in this section, a general building contractor is a contractor whose
6 principal contracting business is in connection with any structure built, being built, or to be built,
7 for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any
8 kind, requiring in its construction the use of at least two unrelated building trades or crafts, or to
9 do or superintend the whole or any part thereof.

10 “ This does not include anyone who merely furnishes materials or supplies under Section
11 7045 without fabricating them into, or consuming them in the performance of the work of the
12 general building contractor.

13 “(b) A general building contractor may take a prime contract or a subcontract for a framing
14 or carpentry project. However, a general building contractor shall not take a prime contract for
15 any project involving trades other than framing or carpentry unless the prime contract requires at
16 least two unrelated building trades or crafts other than framing or carpentry, or unless the general
17 building contractor holds the appropriate license classification or subcontracts with an
18 appropriately licensed contractor to perform the work. A general building contractor shall not take
19 a subcontract involving trades other than framing or carpentry, unless the subcontract requires at
20 least two unrelated trades or crafts other than framing or carpentry, or unless the general building
21 contractor holds the appropriate license classification. The general building contractor may not
22 count framing or carpentry in calculating the two unrelated trades necessary in order for the
23 general building contractor to be able to take a prime contract or subcontract for a project
24 involving other trades.

25 “(c) No general building contractor shall contract for any project that includes the "C-16"
26 Fire Protection classification as provided for in Section 7026.12 or the "C-57" Well Drilling
27 classification as provided for in Section 13750.5 of the Water Code, unless the general building
28 contractor holds the appropriate license classification, or subcontracts with the appropriately

1 licensed contractor.”

2 23. Section 7058, subdivision (a), states that “[a] specialty contractor is a contractor
3 whose operations involve the performance of construction work requiring special skill and whose
4 principal contracting business involves the use of specialized building trades or crafts.”

5 24. Section 7059, subdivision (a), states:

6 “The board may adopt reasonably necessary rules and regulations to effect the classification
7 of contractors in a manner consistent with established usage and procedure as found in the
8 construction business, and may limit the field and scope of the operations of a licensed contractor
9 to those in which he or she is classified and qualified to engage, as defined by Sections 7055, 7056,
10 7057, and 7058. A licensee may make application for classification and be classified in more than
11 one classification if the licensee meets the qualifications prescribed by the board for such additional
12 classification or classifications. The application shall be in a form as prescribed by the registrar and
13 shall be accompanied by the application fee fixed by this chapter. No license fee shall be charged
14 for an additional classification or classifications.

15 “Nothing contained in this section shall prohibit a specialty contractor from taking and
16 executing a contract involving the use of two or more crafts or trades, if the performance of the
17 work in the crafts or trades, other than in which he or she is licensed, is incidental and
18 supplemental to the performance of the work in the craft for which the specialty contractor is
19 licensed.”

20 25. California Code of Regulations, title 16, section 830 states:

21 “(a) All contractors to whom licenses are issued shall be classified by the Registrar as a
22 specialty contractor, as defined in this article; a general engineering contractor (Class A), as
23 defined in Section 7056 of the Code; or a general building contractor (Class B), as defined in
24 Section 7057 of the Code.

25 “(b) Contractors licensed in one classification shall be prohibited from contracting in the
26 field of any other classification unless they are also licensed in that classification or are permitted
27 to do so by Section 831.”

28 26. California Code of Regulations, title 16, section 831 states:

1 “For purposes of Section 7059, work in other classifications is "incidental and supplemental"
2 to the work for which a specialty contractor is licensed if that work is essential to accomplish the
3 work in which the contractor is classified. A specialty contractor may use subcontractors to
4 complete the incidental and supplemental work, or he may use his own employees to do so.”

5 27. California Code of Regulations, title 16, section 832 states, in pertinent part:

6 “Specialty contractors shall perform their trade using the art, experience, science and skill
7 necessary to satisfactorily organize, administer, construct and complete projects under their
8 classification, in accordance with the standards of their trade.

9 “They are classified into the following subclassifications:

<i>Classification</i>	<i>Code</i>	<i>Section</i>
.....		
Roofing Contractor	C-39	832.39
.....”		

14 28. California Code of Regulations, title 16, section 832.39 states:

15 “A roofing contractor installs products and repairs surfaces that seal, waterproof and
16 weatherproof structures. This work is performed to prevent water or its derivatives, compounds or
17 solids from penetrating such protection and gaining access to material or space beyond. In the
18 course of this work, the contractor examines and/or prepares surfaces and uses the following
19 material: asphaltum, pitch, tar, felt, glass fabric, urethane foam, metal roofing systems, flax,
20 shakes, shingles, roof tile, slate or any other roofing, waterproofing, weatherproofing or membrane
21 material(s) or a combination thereof.”

22 **COST RECOVERY / RESTITUTION**

23 29. Section 125.3 provides that the Registrar may request the administrative law judge to
24 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
25 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

26 30. Government Code section 11519, subdivision (d), provides that specified terms of
27 probation may include an order of restitution, and where restitution is ordered and paid pursuant
28 to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment

1 in a civil action.

2 **GARDENLAND AVENUE PROJECT**

3 31. On or about January 19, 2017, Respondent, through its unregistered home
4 improvement salesperson Abel Gonzalez (A.G.), entered into a written contract with homeowner
5 J.G. to remove and install a roof at his residence located on Gardenland Avenue, in Bellflower,
6 California, for \$18,000.00, and subsequently, on or about January 21, 2017, renegotiated with R's
7 Commercial Manager, Caesar Loche (C.L.) for the reduced contract amount of \$13,000.00
8 (Gardenland Avenue Project). Respondent used the unlicensed business name of Green Living
9 Inc. on the contract. The contract amount was to be financed through the HERO Program¹.
10 Work began on or about March 2, 2017, and ended on or about March 21, 2017. Respondent
11 used another's license to pull permits for the project. The homeowner was required to correct
12 Respondent's work. During the Board's investigation, attempts to interview Respondent's RMO
13 were unsuccessful.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Failure to Exercise Direct Supervision - Duty of Qualifier)**

16 32. Respondent is subject to disciplinary action under section 7068.1, in that on the
17 Gardenland Avenue Project, Respondent's RMO failed to exercise direct supervision and control
18 of Respondent's construction operations to secure compliance with the Contractors' State License
19 Law and the rules and regulations of the Board.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Namestyle Variance From License)**

22 33. Respondent is subject to disciplinary action under section 7117, subdivision (a), in that
23 on the Gardenland Avenue Project, Respondent used in its contract an alternative business name of
24 "Green Living Inc." instead of its licensed name "Green Living CA".

25 ¹ The Home Energy Renovation Opportunity (HERO) Program is an energy efficient
26 financing program in the United States. The HERO Program is a Property Assessed Clean Energy
27 (PACE) Program, which provides financing for energy-efficient, water-efficient and renewable
28 energy products to home and business owners in approved communities within California and
Missouri. The financing provided by the HERO Program is repaid through annual property tax
payments, which are collected by the County.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Contracting Out of Classification)**

3 34. Respondent is subject to disciplinary action under section 7117.6, in conjunction with
4 sections 7057 and 7059, and California Code of Regulations, title 16, sections 830, 832 and
5 832.39, in that on the Gardenland Avenue Project, Respondent contracted outside the scope/crafts
6 of its licensed classification B, general building. Respondent provided services that required
7 classification C-39, roofing contractor, work outside the scope/crafts for which it is licensed.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(False Workers' Compensation Exemption Certification)**

10 35. Respondent is subject to disciplinary action under section 7125.4, subdivision (a), in
11 that on the Gardenland Avenue Project, Respondent maintained with the Board an exemption
12 certificate from workers' compensation insurance when it had employees subject to coverage
13 under the workers' compensation laws.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Employment of Unregistered Home Improvement Salesperson)**

16 36. Respondent is subject to disciplinary action under section 7154, subdivision (d), in that
17 on the Gardenland Avenue Project, Respondent employed A.G. to sell a home improvement
18 contract when A.G. was not registered with the Board as a home improvement salesperson.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Violations of Home Improvement Contract Form Requirements)**

21 37. Respondent is subject to disciplinary action under section 7159, in that on the
22 Gardenland Avenue Project, Respondent violated home improvement contract drafting
23 requirements, as follows:

24 a. Section 7159(d)(10)(C). Respondent failed to include the approximate date on which
25 work will be commenced.

26 **OTHER MATTERS**

27 38. Pursuant to sections 7097 and 7098, if license No. 1017009 issued to Respondent is
28 suspended or revoked, the Registrar may suspend or revoke, without notice, any other license

1 issued in the name of Shai Ruben Ades or for which Shai Ruben Ades furnished the qualifying
2 experience and appearance.

3 39. Pursuant to sections 7121, 7121.5, 7122 and / or 7122.5, if discipline is imposed on
4 license No. 1017009 issued to Respondent, Shai Ruben Ades shall be prohibited from serving as
5 an officer, director, associate, partner, manager, or qualifying individual, or member of the
6 personnel of record of a licensee of any licensee during the time the discipline is imposed, and any
7 licensee which employs, elects, or associates Shai Ruben Ades shall be subject to disciplinary
8 action.

9 **PRAYER**

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

12 As to Green Living CA

13 1. Revoking or suspending Contractor's License No. 1017009 issued to Green Living
14 CA, Shai Ruben Ades, RMO/CEO/PRES;

15 2. Prohibiting Shai Ruben Ades from serving as an officer, director, associate, partner, or
16 qualifying individual of any licensee during the period that discipline is imposed on license No.
17 1017009, issued to Green Living CA, Shai Ruben Ades, RMO/CEO/PRES;

18 3. Revoking or suspending any other license for which Shai Ruben Ades is furnishing the
19 qualifying experience or appearance;

20 4. Ordering restitution of all damages according to proof suffered by homeowner J.G., as
21 a condition of probation in the event probation is ordered;

22 5. Ordering restitution of all damages suffered by homeowner J.G. as a result of Shai
23 Ruben Ades's conduct as a contractor, as a condition of restoration of license No. 1017009, issued
24 to Green Living CA, Shai Ruben Ades, RMO/CEO/PRES;

25 6. Ordering Green Living CA, Shai Ruben Ades, RMO/CEO/PRES to pay the Registrar
26 costs for the investigation and enforcement of the case according to proof at the hearing, pursuant
27 to section 125.3;

28 7. Ordering Green Living CA, Shai Ruben Ades, RMO/CEO/PRES to provide the

1 Registrar with a listing of all contracting projects in progress and the anticipated completion date
2 of each;

3 As to Shai Ruben Ades

4 8. Revoking or suspending Home Improvement Salesperson License No. 83394 SP
5 issued to Shai Ruben Ades;

6 9. Prohibiting Shai Ruben Ades from serving as an officer, director, associate, partner, or
7 qualifying individual of any licensee during the period that discipline is imposed on license
8 No. 83394 SP, issued to Shai Ruben Ades;

9 10. Revoking or suspending any other license for which Shai Ruben Ades is furnishing the
10 qualifying experience or appearance;

11 11. Ordering Shai Ruben Ades to provide the Registrar with a listing of all contracting
12 projects in progress and the anticipated completion date of each; and

13 As to All

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

15
16 DATED:

06/11/18

FILED

JUN 11 2018

CSLB DSS

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