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

In the Matter of the Accusation Against:

ULIMEZA CONCRETE RESTORATION 541 Maple Street West Sacramento, CA 95691 ULISES FRANK MEZA, Sole Owner Aka: ULISES FRANK MEZA AVENIO

Contractor License No. 1011267

Respondent.

CASE NO. N 2017 306

ORDER TO ADOPT DEFAULT DECISION

[Gov. Code, § 11520]

The attached Default Decision is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

Contractor's License Number 1011267 issued to ULIMEZA CONCRETE RESTORATION is revoked.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, title 16, Respondent **ULIMEZA CONCRETE RESTORATION** Contractor's License No. **1011267**, shall not apply for reissuance or reinstatement of said license for <u>five</u> year(s) from the effective date of this Decision.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 22, 2019.

IT IS SO ORDERED March 21, 2019.

Registrar of Contractors

BEFORE THE REGISTRAR OF CONTRACTORS 2 CONTRACTORS' STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS 3 STATE OF CALIFORNIA 5 6 In the Matter of the Accusation Against: Case No. N2017-306 7 ULIMEZA CONCRETE RESTORATION OAH No. 2018110033 541 Maple Street 8 West Sacramento, CA 95691 **DEFAULT DECISION ULISES FRANK MEZA, Sole Owner** 9 aka: ULISES FRANK MEZA AVENIO [Gov. Code, §11520] 10 Contractor License No. 1011267 11 Respondent. 12 13 FINDINGS OF FACT 1. 14 On or about August 30, 2018, Accusation No. N2017-306 was filed against Ulises 15 Frank Meza (Avenio), Ulimeza Concrete Restoration (Respondent) before the Registrar of 16 Contractors (Registrar) for the Contractors' State License Board (Board). (Accusation attached as 17 Exhibit A.) 2. 18 On or about February 17, 2016, the Registrar issued Contractor License No. 1011267 19 to Respondent. The Contractor License was in full force and effect at all times relevant to the 20 charges brought in Accusation No. N2017-306 and will expire on February 29, 2020, unless 21 renewed. 22 3. On or about August 30, 2018, Respondent was served by Certified and First Class 23 Mail copies of the Accusation No. N2017-306, Statement to Respondent, Notice of Defense, 24 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, 25 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

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Code section 136, is required to be reported and maintained with the Board. Respondent's

address of record was and is: 541 Maple Street, West Sacramento, CA 95691.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
 - 5. Government Code section 11506(c) states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 6. Respondent filed a Notice of Defense and an administrative hearing was scheduled for February 19-20, 2019. On February 14, 2019, Respondent's counsel informed Complainant's counsel that Respondent wished to withdraw his Notice of Defense and allow a default to be taken in this matter. On February 14, 2019, Respondent's counsel provided a signed Withdrawal of Notice of Defense to Complainant's counsel, which was then submitted to the Office of Administrative Hearings and to Complainant's staff. Withdrawal of the Notice of Defense provides Complainant the jurisdiction to proceed with this default.
- 7. The Registrar takes official notice of the Board's records and the fact that Respondent withdrew his Notice of Defense prior to the scheduled administrative hearing and therefore waived his right to a hearing on the merits of Accusation No. N2017-306.
 - 8. California Government Code section 11520(a) states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent. . . .
- 9. Pursuant to its authority under Government Code section 11520, the Registrar finds Respondent is in default. The Registrar will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. N2017-306, finds that the charges and allegations in Accusation No. N2017-306, are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

\$7,670.20 as of February 15, 2019.

1. Based on the foregoing findings of fact, Respondent Ulimeza Concrete Restoration, Ulises Frank Meza, sole owner, has subjected his Contractor License No. 1011267 to discipline.

- 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Registrar of Contractors is authorized to revoke Respondent's contractor license based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

The Registrar finds that the actual costs for investigation and prosecution are

- a. Code section 7114, aiding and abetting an unlicensed person to perform construction services without a license. Respondent admitted to pulling a permit for a roofing job so that a friend of his could perform the job while knowing that it was illegal for him to do so and that his friend was not licensed as a roofing contractor.
- b. Code section 7117.6, working out of classification when Respondent entered into a written home improvement contract to perform work within the scope of a C-39, roofing contractor, license, when Respondent had not been issued a license or that classification.
- c. 7117(a), namestyle variance. Respondent provided a business card and two estimates to the homeowner, each with different names, none of which were the name under which Respondent was licensed. Specifically, Respondent used "Ulises home construction services," "Ulise's & Linda's Home Office Services," and "Meza's and Clark Paint and Construction Inc.," when Respondent was and is licensed under the name "Ulimeza Concrete Restoration."
- d. Code section 7159, failing to comply with provisions of the Home Improvement Contract requirements. Respondent failed to provide any of the specific information, notices, and disclosures required under this code section.
- e. In aggravation, Respondent has three (3) criminal convictions for contracting without a license, and a previous citation from CSLB. Respondent became licensed on or about February 17, 2016, and entered into the contract in question with the homeowner on or about September 29, 2017.

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4. Pursuant to Business and Professions Code section 7122.5, the performance by an				
individual, partnership, corporation, limited liability company, firm, or association of an act or				
omission constituting a cause for disciplinary action constitutes a cause for disciplinary action				
against a licensee who at the time that the act or omission occurred was the qualifying individua				
of that individual, partnership, corporation, limited liability company, firm, or association,				
whether or not he or she had knowledge of or participated in the prohibited act or omission.				
Therefore, pursuant to section 7122.5, Ulises Frank Meza, is subject to discipline regardless of				
whether or not he had knowledge of or participated in the act(s) or omissions(s) in Accusation				
No. N2017-306.				

REGISTRAR OF CONTRACTORS CONTRACTORS' STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS

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Attachment: Exhibit A: Accusation

Exhibit A

Accusation

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1	XAVIER BECERRA			,			
2	Attorney General of California	•		•			
	JANICE K. LACHMAN Supervising Deputy Attorney General			,			
3	Kristina T. Jarvis						
4	Deputy Attorney General State Bar No. 258229			•			
5.	1300 I Street, Suite 125		·				
٥	P.O. Box 944255 Sacramento, CA 94244-2550	,					
6	Telephone: (916) 210-6088				-		
7	Facsimile: (916) 327-8643 Attorneys for Complainant		•				
o		;)					
8	BEFORE THE REGISTRAR OF CONTRACTORS						
9	CONTRACTORS' STATE 1	LICENSE BOARD					
10	DEPARTMENT OF CONS STATE OF CALI						
11		.	,				
12	In the Matter of the Accusation Against:	Case No. N2017-30					
13	ULIMEZA CONCRETE RESTORATION	ACCUSATIO	N				
	541 Maple Street West Sacramento, CA 95691		•				
14	ULISES FRANK MEZA, Sole Owner	,					
15	aka: ULISES FRANK MEZA AVENIO						
16	Contractor License No. 1011267		,				
	Contractor License No. 1011207						
17	Respondent.		× .		•		
18							
19	Wood Robinson ("Complainant") alleges:						
20	PARTIES	<u>s</u> .	•	٠.			
21	Complainant brings this Accusation solely	y in his official capac	ity as the Er	nforcemen	nt		
22	Supervisor I of the Contractors' State License Board ("Board"), Departmen	t of Consun	ner Affai	rs.		
23	2. On or about February 17, 2016, the Regis	trar of Contractors (R	legistrar) iss	ued			
24	Contractor License number 1011267 to Ulimeza Concrete Restoration, Ulises Frank Meza also						
25	known as (aka) Ulises Frank Meza Avenio, sole owne	er ("Respondent"). O	n or about I	March 14	,		
26	2017, the license was suspended pursuant to Business and Professions Code ("Code") section						
27.	7125.2 (workers' compensation). On or about May 31, 2017, the license was reinstated. The						
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license was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2020, unless renewed.

JURISDICTION

This Accusation is brought before the Registrar of the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

3. Code section 118, subsection (b) states:

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

- 4. Code section 7090 provides, in pertinent part, that the Registrar may suspend or revoke any license or registration if the licensee or registrant is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.
- 5. Code section 7095 provides, in pertinent part, that the Registrar in making his order may:
 - (a) Provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision.
 - (b) Permit the licensee to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.
 - (c) Impose upon the licensee compliance with such specific conditions as may be just in connection with its operations as a contractor disclosed at the hearing, and may further provide that until such conditions are complied with, no application for restoration of the suspended or revoked license shall be accepted by the Registrar.
 - 6. Code section 7096 states:

For the purposes of this chapter, the term "licensee" shall include an individual, copartnership, corporation, joint venture, or any combination or organization licensed under this chapter, and shall also include any named responsible managing officer or member of the personnel of such licentiate whose appearance has qualified the licentiate under the provisions of Section 7068.

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7. Code section 7097 states:

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

8. Code section 7098 states:

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

9. Code section 7106.5 states:

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

10. Code section 7076.5 provides, in pertinent part, that the inactive status of a license shall not bar any disciplinary action for violating provisions of the Contractors' State License Law (Bus. & Prof. Code, § 7000, et seq.).

11. Code section 7121 states:

Any person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, or associate of any partnership, corporation, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or associate had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended, or revoked, shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of a licensee, and the employment, election, or association of this type of person by a licensee in any capacity other than as a non-supervising bona fide employee shall constitute grounds for disciplinary action.

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12. Code section 7121.5 states:

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

STATUTORY PROVISIONS

13. Code section 7114(a) states:

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.

14. Code section 7117 states:

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

15. Code section 7117.6 states:

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

16. Code section 7159 states, in pertinent part:

- (a)(1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements and lists the items that shall be included in the contract, or may be provided as an attachment.
- (5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.
- (c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:
- (4) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(4) A notice with the heading "Mechanics' Lien Warning" written as follows: "MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752):

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface: "Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors. Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to

license by the Board on August 29, 2000. The license expired on May 31, 2013.

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¹ Prisciliano Toledo, doing business as Cal Roof Removal, was issued a sole ownership

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FOURTH CAUSE FOR DISCIPLINE

(Failed to Comply with Provisions of the Home Improvement Contract Form)

24. Respondent is subject to discipline under Code section 7159, in that on or about September 29, 2017, on the Verner Avenue project, he failed to prepare and provide the homeowner with a complete written home improvement contract containing the specific information, notices, and disclosures required.

MATTERS IN AGGRAVATION

- 25. On or about October 17, 2013, the Registrar issued Citation No. 5-2012-2643 to Respondent alleging that he violated Code sections 7028.7 (acting in the capacity of a contractor without a valid license) and 7125.2(d) (failed to maintain a workers' compensation policy). The Board assessed a civil penalty against Respondent in the amount of \$3,750. On or about November 26, 2013, the Board reduced the civil penalty to \$2,000. Respondent complied with the Citation.
- 26. On or about January 30, 2014, in the case of *People v. Ulises Meza*, (Super. Ct. Sacramento County, 2014, Case No. 14M00406), Respondent was convicted by the Court on his plea of nolo contendere of violating Business and Professions Code section 7028(a) (contracting without a valid license), a misdemeanor.
- 27. On or about April 8, 2014, in the case of *People v. Ulises Meza*, (Super. Ct. Placer County, 2013, Case No. 62-128604), Respondent was convicted by the Court on his plea of no contest of violating Business and Professions Code sections 7028(a) (contracting without a valid license), a misdemeanor; and Labor Code section 3700.5 (failure to secure payment workers' compensation).
- 28. On or about April 29, 2015, in the case of *People v. Ulises Meza*, (Super. Ct. Yolo County, 2013, Case No. CRF-2015-685-2), Respondent was convicted by the Court on his plea of no contest of violating Business and Professions Code sections 7027.3 (fraudulent use of a contractor's license), a misdemeanor; and 7028(a) (contracting without a valid license), a misdemeanor.

OTHER MATTERS

- 29. Pursuant to Code sections 7097 and 7098, if Contractor's License number 1011267, issued to Ulimeza Concrete Restoration, Ulises Frank Meza, aka Ulises Frank Meza Avenio, sole owner is suspended or revoked, then the Registrar may suspend or revoke, without notice, any other license issued in the name of Ulises Frank Meza, aka Ulises Frank Meza Avenio, or for which he furnished the qualifying experience and appearance.
- 30. Pursuant to Code section 7121, if discipline is imposed on Contractor's License number 1011267, issued to Ulimeza Concrete Restoration, Ulises Frank Meza, aka Ulises Frank Meza Avenio, sole owner, then Ulises Frank Meza, aka Ulises Frank Meza Avenio shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the time the discipline is imposed, and any licensee which employs, elects, or associates him in any capacity other than as a non-supervising bona fide employee shall constitute grounds for disciplinary action.
- 31. Pursuant to Code section 7121.5, if discipline is imposed on Contractor's License number 1011267, issued to Ulimeza Concrete Restoration, Ulises Frank Meza, aka Ulises Frank Meza Avenio, sole owner, then Ulises Frank Meza, aka Ulises Frank Meza Avenio shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of any other licensee during the time the discipline is imposed, whether or not he had knowledge or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects, or associates him shall be subject to disciplinary action.

PRAYER

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

- Revoking or suspending Contractor's License number 1011267, issued to Ulimeza
 Concrete Restoration, Ulises Frank Meza, aka Ulises Frank Meza Avenio, sole owner;
- 2. Prohibiting Ulises Frank Meza aka Ulises Frank Meza Avenio from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on Contractor's License number 1011267, issued to Ulimeza Concrete