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

In the Matter of the Accusation Against: **SUN CORPORATION** **dba AMD CONTRACTORS** 2271 W. Malvern Ave, #138 Fullerton, CA 92833 RUBEN CASTRO CRUZ, RMO EUGENE SAPP, Officer Contractor's License No. 904729, Respondent. **RUBEN CRUZ CONSTRUCTION** 138 South Electric Avenue Monterey Park, CA 91754 RUBEN CASTRO CRUZ, SOLE OWNER Contractor's License No. 482546 Affiliated Party	Case No. N2010-458 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

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License Histories

Respondent: Sun Corporation dba AMD Contractors

2. On or about October 11, 2007, the Registrar of Contractors (Registrar) issued Contractor's License No. 904729 to Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer (Respondents). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

Affiliated Party: Ruben Cruz Construction

3. On or about November 12, 1985, the Registrar issued Contractor's License No. 482546 to Ruben Cruz Construction; Ruben Castro Cruz, Sole Owner (Affiliated Party). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

Revoked Licensee: 1-AMD Construction, Inc. dba AMD Construction

4. On or about November 16, 2000, the Registrar issued Contractor's License No.787533 to 1-AMD Construction, Inc. dba AMD Construction; Marcelo Fernando Musi, RMO (disassociated 7/26/2007), Mirella Mordoki, CEO-President, Gina Mordoki, Officer, Alberto Mordoki, Officer, Jacques Mordoki, Officer, Diego Mordoki, Officer, and Ruth Natalie Gonzalez, Officer (disassociated 10/30/2001).

5. On or about February 8, 2008, Contractor's License No. 787533 was revoked by the Board in the matter entitled *In the Matter of the Accusation Against: 1-AMD Construction, Inc. dba AMD Construction*, Case No. S 2005 152, for violating Business and Professions Code sections 7112 [misrepresented facts on application], 7098 [other license was revoked], 7121[associated with disciplined licensee] and 7121.5 [qualifier prohibited against association].

JURISDICTION

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

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7. Section 118, subdivision (b), provides that the expiration 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 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.

8. Section 7068.1 states, in pertinent part:

"The person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations as is necessary to secure full compliance with the provisions of this chapter and the rules and regulations of the board relating to the construction operations. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

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

9. Section 7076.5 provides 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.).

10. Section 7090 provides 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.

11. Section 7095 states 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 licensee shall be accepted by the Registrar."

12. 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 7068, without further notice.

13. Section 7106.5 provides that 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 the license 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.

14. 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 nonsupervising bona fide employee shall constitute grounds for disciplinary action."

15. 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, 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 such person by a licensee shall constitute grounds for disciplinary action."

16. Section 7122 states:

"The performance by any individual, partnership, corporation, firm, or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee other than the individual qualifying on behalf of the individual or entity, if the licensee was a member, officer, director, or associate of such individual, partnership, corporation, firm or association at the time such act or omission occurred, and had knowledge of or participated in such prohibited act or omission."

17. Section 7122.5 states:

"The performance by any individual, partnership, corporation, firm, or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who at the time such act or omission occurred was the responsible managing employee, qualifying partner, responsible managing officer, or qualifying member of such individual, partnership, corporation, firm, or association, whether or not he had knowledge of or participated in the prohibited act or omission."

STATUTORY PROVISIONS

18. Section 7110 states:

"Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to 1689.8, inclusive, or Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state, or violation by any licensee of any provision of the Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells, or Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, constitutes a cause for disciplinary action."

19. Section 7116 states that "[t]he doing of any wilful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured constitutes a cause for disciplinary action."

20. Labor Code section 1777.1 states:

"(a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

"(1) Bid on or be awarded a contract for a public works project.

"(2) Perform work as a subcontractor on a public works project.

"(b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in willful violation of this chapter, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years for each second and subsequent violation occurring within three years of a separate and previous willful violation of this chapter to do either of the following:

"(1) Bid on or be awarded a contract for a public works project.

"(2) Perform work as a subcontractor on a public works project.

"(c) A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions.

"(d) Not less than semiannually, the Labor Commissioner shall publish and distribute to awarding bodies a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this chapter. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. The commissioner shall also place advertisements in construction industry publications targeted to the

contractors and subcontractors, chosen by the commissioner, that state the effective period of the debarment and the reason for debarment. The advertisements shall appear one time for each debarment of a contractor in each publication chosen by the commissioner. The debarred contractor or subcontractor shall be liable to the commissioner for the reasonable cost of the advertisements, not to exceed five thousand dollars ($5,000). The amount paid to the commissioner for the advertisements shall be credited against the contractor's or subcontractor's obligation to pay civil fines or penalties for the same willful violation of this chapter.

"(e) For purposes of this section, "contractor or subcontractor" means a firm, corporation, partnership, or association and its responsible managing officer, as well as any supervisors, managers, and officers found by the Labor Commissioner to be personally and substantially responsible for the willful violation of this chapter.

"(f) For the purposes of this section, the term "any interest" means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative."Any interest" includes, but is not limited to, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period."Any interest" does not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of debarment from an entity bidding or performing work on a public works project.

"(g) For the purposes of this section, the term "entity" is defined as a company, limited liability company, association, partnership, sole proprietorship, limited liability partnership, corporation, business trust, or organization.

"(h) The Labor Commissioner shall adopt rules and regulations for the administration and enforcement of this section."

COST RECOVERY / RESTITUTION

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

22. Government Code section 11519, subdivision (d), provides that the Registrar may require restitution of damages suffered as a condition of probation in the event probation is ordered.

SUN CORPORATION

23. On or about July 7, 2004, Respondent with Mirella Mordoki, as its President and Registered Agent, filed is Articles of Incorporation with the Secretary of State and was issued corporation filing No. C2617393. The corporation's address is 2271 W. Malvern Ave., Ste 138, Fullerton, CA 92833-2106, the same as Respondent's address of record.

DEBARMENT PROCEEDINGS

24. On or about January 27, 2009, pursuant to Labor code section 1777.1, the State of California Department of Industrial Relations, Division of Labor Standards Enforcement, initiated debarment proceedings against Respondent in State Case No. SAC 1037 entitled *In the matter of the Debarment Proceeding Against: 1-AMD Construction, Inc.; Gina Mordoki; Alberto Mordoki; Jacques Mordoki; Diego Mordoki, Mirella Mordoki; and Marcelo Fernando Musi.* Effective March 16, 2009, the State Labor Commissioner in Decision Re Debarment of Respondents From Public Works Projects, No. SAC 1037 debarred 1-AMD Construction, Inc., Alberto Mordoki and Mirella Mordoki, from working on public works projects in the State of California for three (3) years (3/16/2009 – 3/15/2012), and / or any association thereto[1], for "willfully" violating Labor

[1] "This debarment shall also apply to any other contractor or subcontractor in which Respondents 1-AMD CONSTRUCTION, INC., ALBERTO MORDOKI AND MIRELLA MORDOKI have any interest or for which wither or all three said Respondents act as a responsible managing employee, responsible managing officer, general partner, manager, supervisor, owner, partner, officer, employee, agent, consultant, or representative. As defined under Labor Code 1777.1(f), "'Any interest' includes, but is not limited to, all instance where the debarment contractor or subcontractor [Respondents] receive payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or (continued...)

Code sections 1774 [failure to pay prevailing rates], 1815 [failing to pay correct overtime rates] and 1776 [failing to maintain accurate payroll records, to wit, certified payroll records did not match workers check stubs]. A copy of the Decision, State Case No. SAC 1037, is attached as Exhibit "A" and incorporated herein in full by reference.

TAISEI PROJECT

25. On or about September 7, 2010, Respondent, through its agent Mirella Mordoki, entered into a written drywall/framing subcontract with Taisei Construction Corporation, the prime contractor for public works projects: Las Margaritas Apartments, 115 & 137 N. Soto Street and 319 N. Cummings Street, Los Angeles, CA 90033; 115 N. Soto Street, rehabilitation of existing 16-unit apartment building; 137 N. Soto Street, new construction of 20 units of multifamily housing; and 319 N. Cummings Street, rehabilitation for three vacant duplexes (Taisei Project). The contract amount was $325,207.00.

26. On or about November 8, 2010, through its agent Mirella Mordoki, Respondent provided its contractor's bond information to James Larkin (erroneously named James Larson in fax), Compliance Supervisor of Community Redevelopment for the City of Los Angeles.

27. Subsequently, pursuant to the Decision Re Debarment of Respondents From Public Works Projects, No. SAC 1037, Taisei Construction Corporation terminated its subcontract agreement with Respondent.

CSLB INVESTIGATION

28. On or about November 16, 2010, the Board initiated an investigation into Respondent's subcontract on the Taisei Project.

29. On or about January 10, 2011, and March 18, 2011, a Board investigator followed up on the investigation by telephoning Respondent's telephone number of record and spoke with and was directed to speak with Mirella Mordoki as its representative.

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will be assigned or sublet, or for vehicles, tools, equipment or supplies that have been or will be sold, rented or leased during the period of from the initiation of the debarment proceedings until the end of the term of the debarment period." (Exhibit "A", Decision, Proposed Statement of Decision Re Debarment, pgs. 11:22-28, 12:1-10).

30. On or about January 13, 2011, and March 21, 2011, the Board investigator was contacted by attorney N.G., as legal counsel for both, Mirella Modoki and Sun Corporation.

FIRST CAUSE FOR DISCIPLINE

(Deliberate or Willful Disregard of Labor Laws)

31. Respondent is subject to disciplinary action under sections 7110 and 7116, in that on the Taisei Project, Respondent willfully and deliberately violated Labor Code section 1777.1 by contracting when it was debarred.

OTHER MATTERS

32. Pursuant to sections 7097 and 7098, if license No. 904729 issued to Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any other license issued in the name of Ruben Castro Cruz and / or Eugene Sapp or for which Ruben Castro Cruz and / or Eugene Sapp furnished the qualifying experience and appearance.

33. Pursuant to sections 7121, 7121.5, 7122 and 7122.5, if discipline is imposed on license No. 904729 issued to Respondent, Ruben Castro Cruz and / or Eugene Sapp 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 Ruben Castro Cruz and / or Eugene Sapp 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 issue a decision:

As to Sun Corporation dba AMD Contractors

1. Revoking or suspending Contractor's License No. 904729 issued to Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer;

2. Prohibiting Ruben Castro Cruz and / or Eugene Sapp from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 904729, issued to Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer;

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3. Revoking or suspending any other license for which Ruben Castro Cruz and / or Eugene Sapp is furnishing the qualifying experience or appearance;

4. Ordering restitution of all damages according to proof suffered by Tsai Construction Corporation, as a condition of probation in the event probation is ordered;

5. Ordering restitution of all damages suffered by Tsai Construction Corporation as a result of Ruben Castro Cruz and / or Eugene Sapp's conduct as a contractor, as a condition of restoration of license No. 904729, issued to Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer;

6. Ordering Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer, to pay the Registrar his costs in the investigation and enforcement of the case according to proof at the hearing, pursuant to section 125.3;

7. Ordering Sun Corporation dba AMD Contractors; Ruben Castro Cruz, RMO; Eugene Sapp, Officer to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

As to Ruben Cruz Construction

8. Revoking or suspending Contractor's License No. 482546 issued to Ruben Cruz Construction; Ruben Castro Cruz, Sole Owner;

9. Prohibiting Ruben Castro Cruz from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 482546, issued to Ruben Cruz Construction; Ruben Castro Cruz, Sole Owner;

10. Revoking or suspending any other license for which Ruben Castro Cruz is furnishing the qualifying experience or appearance;

11. Ordering Ruben Cruz Construction; Ruben Castro Cruz, Sole Owner to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each; and

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

DATED: December 2, 2011

For

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

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