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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. N2010-458

13 **SUN CORPORATION**
14 **dba AMD CONTRACTORS**
2271 W. Malvern Ave, #138
15 Fullerton, CA 92833
RUBEN CASTRO CRUZ, RMO
EUGENE SAPP, Officer

**FIRST AMENDED
ACCUSATION**

16 Contractor's License No. 904729,

17 Respondent.

18 **RUBEN CRUZ CONSTRUCTION**
138 South Electric Avenue
19 Monterey Park, CA 91754
RUBEN CASTRO CRUZ, SOLE OWNER

20 Contractor's License No. 482546

21 Affiliated Party

22
23 Complainant alleges:

24 **PARTIES**

25 1. Wood Robinson (Complainant) brings this First Amended Accusation solely in his
26 official capacity as the Enforcement Supervisor I of the Contractors' State License Board,
27 Department of Consumer Affairs (Board).
28

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

6 8. Section 7068.1 states, in pertinent part:

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

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

15 9. Section 7076.5 provides that the inactive status of a license shall not bar any
16 disciplinary action for violating provisions of the Contractors' State License Law (Bus. & Prof.
17 Code, § 7000, et seq.).

18 10. Section 7090 provides that the Registrar may suspend or revoke any license or
19 registration if the licensee or registrant is guilty of or commits any one or more of the acts or
20 omissions constituting cause for disciplinary action.

21 11. Section 7095 states that the Registrar in making his order may:

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

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

26 “(c) Impose upon the licensee compliance with such specific conditions as may be just in
27 connection with its operations as a contractor disclosed at the hearing, and may further provide
28 that until such conditions are complied with, no application for restoration of the suspended or

1 revoked licensee shall be accepted by the Registrar.”

2 12. Sections 7097 and 7098 provide that when any license has been suspended or revoked
3 following a hearing, the Registrar may suspend or revoke any additional license issued in the
4 name of the licensee or for which the licensee furnished qualifying experience and appearance
5 under the provisions of 7068, without further notice.

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

11 14. Section 7121 states:

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

26 15. Section 7121.5 states:

27 "A person who was the qualifying individual on a revoked license, or of a license under
28 suspension, or of a license that was not renewed while it was under suspension, shall be

1 prohibited from serving as an officer, director, associate, partner, or qualifying individual of a
2 licensee, whether or not the individual had knowledge of or participated in the prohibited acts or
3 omissions for which the license was revoked, or suspended, and the employment, election, or
4 association of such person by a licensee shall constitute grounds for disciplinary action."

5 16. Section 7122 states:

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

12 17. Section 7122.5 states:

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

19 **STATUTORY PROVISIONS**

20 18. Section 7110 states:

21 "Willful or deliberate disregard and violation of the building laws of the state, or of any
22 political subdivision thereof, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to
23 1689.8, inclusive, or Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety
24 laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state,
25 or violation by any licensee of any provision of the Health and Safety Code or Water Code,
26 relating to the digging, boring, or drilling of water wells, or Article 2 (commencing with Section
27 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, constitutes a cause for
28 disciplinary action."

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

4 20. Labor Code section 1777.1 states:

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

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

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

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

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

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

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

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

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

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

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

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

27 “(h) The Labor Commissioner shall adopt rules and regulations for the administration and
28 enforcement of this section.”

1 **COST RECOVERY / RESTITUTION**

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

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

8 **SUN CORPORATION**

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

13 **DEBARMENT PROCEEDINGS**

14 24. On or about January 27, 2009, pursuant to Labor code section 1777.1, the State of
15 California Department of Industrial Relations, Division of Labor Standards Enforcement, initiated
16 debarment proceedings against Respondent in State Case No. SAC 1037 entitled *In the matter of*
17 *the Debarment Proceeding Against: 1-AMD Construction, Inc.; Gina Mordoki; Alberto Mordoki;*
18 *Jacques Mordoki; Diego Mordoki, Mirella Mordoki; and Marcelo Fernando Musi.* Effective
19 March 16, 2009, the State Labor Commissioner in Decision Re Debarment of Respondents From
20 Public Works Projects, No. SAC 1037 debarred 1-AMD Construction, Inc., Alberto Mordoki and
21 Mirella Mordoki, from working on public works projects in the State of California for three (3)
22 years (3/16/2009 – 3/15/2012), and / or any association thereto¹, for “willfully” violating Labor

23 ¹ “This debarment shall also apply to any other contractor or subcontractor in which
24 Respondents 1-AMD CONSTRUCTION, INC., ALBERTO MORDOKI AND MIRELLA
25 MORDOKI have any interest or for which wither or all three said Respondents act as a
26 responsible managing employee, responsible managing officer, general partner, manager,
27 supervisor, owner, partner, officer, employee, agent, consultant, or representative. As defined
28 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...)

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

5 **TAISEI PROJECT**

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

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

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

19 **CSLB INVESTIGATION**

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

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

25 ///

26 will be assigned or sublet, or for vehicles, tools, equipment or supplies that have been or will be
27 sold, rented or leased during the period of from the initiation of the debarment proceedings until
28 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).

1 **PRAYER**

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

4 As to Sun Corporation dba AMD Contractors

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

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

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

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

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

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

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

25 As to Ruben Cruz Construction

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

28 9. Prohibiting Ruben Castro Cruz from serving as an officer, director, associate, partner,

1 or qualifying individual of any licensee during the period that discipline is imposed on license
2 No. 482546, issued to Ruben Cruz Construction; Ruben Castro Cruz, Sole Owner;

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

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

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

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10
11 DATED: October 8, 2012


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

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