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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**

13 In the Matter of the Accusation Against:

Case No. N2010-503

14 **ROMERO HENDRIX**
15 **5136 Bay View Circle**
16 **Stockton, CA 95219**

A C C U S A T I O N

17 **Contractor's License No. 867548, Class B**

18 Respondent.

19 Complainant alleges:

20 PARTIES

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

24 2. On or about November 14, 2005, the Registrar of Contractors issued Contractor's
25 License Number 867548, B to Romero Hendrix (Respondent). The Contractor's License was in
26 full force and effect at all times relevant to the charges brought in this Accusation and will expire
27 on November 30, 2013, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Registrar of Contractors (Registrar) for the
3 Contractors' State License Board, Department of Consumer Affairs, under the authority of the
4 following laws. All section references are to the Business and Professions Code unless otherwise
5 indicated.

6 4. Section 7090 of the Business and Professions Code (Code) provides, in relevant part,
7 that the Registrar may suspend or revoke any license or registration if the licensee or registrant is
8 guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary
9 action.

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

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

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

23 8. Section 7141 of the Code states:

24 "Except as otherwise provided in this chapter [the Contractors' State License Law], a
25 license that has expired may be renewed at any time within five years after its expiration by filing
26 an application for renewal on a form prescribed by the registrar, and payment of the appropriate
27 renewal fee. Renewal under this section shall be effective on the date an acceptable renewal
28 application is filed with the board. The licensee shall be considered unlicensed and there will be

1 a break in the licensing time between the expiration date and the date the renewal becomes
2 effective. If the license is renewed after the expiration date, the licensee shall also pay the
3 delinquency fee prescribed this chapter [the Contractors' State License Law]. If so renewed, the
4 license shall continue in effect through the date provided in Section 7140 which next occurs after
5 the effective date of the renewal, when it shall expire if it is not again renewed.

6 "If a license is not renewed within five years, the licensee shall make application for a
7 license pursuant to Section 7066."

8 STATUTORY PROVISIONS

9 9. Section 7095 of the Code provides, in relevant part, that the Registrar, in making his
10 order, may:

11 "(a) Provide for the immediate complete suspension by the licensee of all operations as a
12 contractor during the period fixed by the decision.

13 "(b) Permit the licensee to complete any or all contracts shown by competent evidence
14 taken at the hearing to be then uncompleted.

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

19 10. Section 7107 of the Code states that "[a]bandonment without legal excuse of any
20 construction project or operation engaged in or undertaken by the licensee as a contractor
21 constitutes a cause for disciplinary action."

22 11. Section 7109 of the Code states:

23 "(a) A willful departure in any material respect from accepted trade standards for good and
24 workmanlike construction constitutes a cause for disciplinary action, unless the departure was in
25 accordance with plans and specifications prepared by or under the direct supervision of an
26 architect.

27 "(b) A willful departure from or disregard of plans or specifications in any material respect,
28 which is prejudicial to another, without the consent of the owner or his or her duly authorized

1 representative and without the consent of the person entitled to have the particular construction
2 project or operation completed in accordance with such plans or specifications, constitutes a
3 cause for disciplinary action."

4 12. Section 7113 of the Code states that "[f]ailure in a material respect on the part of a
5 licensee to complete any construction project or operation for the price stated in the contract for
6 such construction project or operation or in any modification of such contract constitutes a cause
7 for disciplinary action."

8 13. Section 7159 of the Code, in relevant part states:

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

12 ...

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

17 14. Section 7159.5 of the Code states, in relevant part:

18 "This section applies to all home improvement contracts, as defined in Section 7151.2,
19 between an owner or tenant and a contractor, whether a general contractor or a specialty
20 contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the
21 transaction.

22 "(a) Failure by the licensee or a person subject to be licensed under this chapter, or by his or
23 her agent or salesperson to comply with the following provisions is cause for discipline:

24 ...

25 "(3) If a downpayment will be charged, the downpayment may not exceed one thousand
26 dollars (\$1,000) or 10 percent of the contract amount, whichever is less.

27 ...

1 additional \$10,037.56 for extra work. By this point, Pagan paid 121,427.56 to Respondent.
2 Further Pagan paid another \$19,554.79 for materials which, under the contract, should have been
3 paid for by Respondent. The total amount paid by Pagan to Respondent (including money for
4 materials) amounted to \$140,982.35. The additional cost to complete and correct the work started
5 by Respondent is estimated to be \$42,647.59 over the contract price.

6 20. Respondent began work on the project on or about September 10, 2007, but
7 abandoned the project in April 2009. It was later determined that much of the work done by
8 Respondent did not meet industry trade standards and deviated from the plans and specifications.

9 **FIRST CAUSE FOR DISCIPLINE**
10 **(Abandonment of Project without Legal Excuse)**
11 **(Bus. & Prof. § 7107)**

12 21. Complainant re-alleges the allegations contained in paragraphs 19 and 20 above, and
13 incorporates them by reference as if fully set forth.

14 22. Respondent has subjected his Contractor's License to disciplinary action under Code
15 section 7107 in that he abandoned the Pagan project before it was completed. Respondent
16 abandoned the Pagan Project without legal cause by failing to complete the project as provided
17 for in the contract and agreements as follows:

- 18 a. Respondent failed to complete repairs to existing front exterior porch which included
19 repairing cracks and applying a sealer to the surface.
20 b. Respondent failed to install shower doors in both lower and upper bathrooms.
21 c. Respondent failed to install decking system for the lower unit as required by the contract.

22 **SECOND CAUSE FOR DISCIPLINE**
23 **(Departure from Accepted Trade Standards)**
24 **(Bus. & Prof. § 7109(a))**

25 23. Complainant re-alleges the allegations contained in paragraphs 19 and 20 above, and
26 incorporates them by reference as if fully set forth.

27 24. Respondent has subjected his Contractor's License to disciplinary action under Code
28 section 7109, subdivision (a), in that some of the work done by Respondent on the Pagan Project
did not meet industry standards. Aspects of the work done on the Pagan Project by Respondent
which are not in compliance with accepted trade standards are as follows:

1 a. Respondent installed a roof gutter which has a negative slope (sloped away from the
2 drain) and the gutter was not properly sealed against leakage. Further, there were spaces where the
3 gutter meets the stucco wall resulting in vertical water stains on the stucco wall.

4 b. Respondent's remodeling of two exterior windows was not done within the accepted
5 trade standard. Specifically, when the exterior windows were removed the openings were
6 supposed to be filled with the same stucco finish as the rest of the exterior walls. Respondent
7 failed to use the same stucco. Further, Respondent failed to adequately overlap the existing
8 stucco with the new stucco material. As a result, cracks developed in the wall where the new
9 stucco meets the existing stucco.

10 c. Respondent installed deck ledger with remnants of sheets of plastic protruding from
11 behind the deck ledger. As a result, the finish on the deck ledger is unsightly and retains
12 moisture.

13 d. Respondent failed to install seismic bracing for two water heaters.

14 e. Respondent failed to install a fully-operational bathroom window.

15 f. Respondent failed to adequately secure the front upper sundeck rail to the stucco wall
16 causing the rail to become disconnected from the stucco wall.

17 g. Respondent failed to provide an exterior-type electrical outlet for the sump pump.

18 h. Respondent failed to properly slope the deck and provide for water drainage off the front
19 sundeck resulting in rain water penetrating the interior of the structure below the sundeck causing
20 extensive water damage.

21 i. Respondent failed to adequately attach the exterior fence to the adjoining neighbor's
22 fence resulting in the fence being loose.

23 j. Respondent failed to install double doors squarely in the upper unit to provide for proper
24 operation.

25 k. Respondent failed to correctly install the laundry room door and, as a result, it does not
26 open and close properly.

1 commencement of the work described in the change orders. Specifically, there were two written
2 change orders totaling \$17,835.00, which brought the total amount of the contract to \$111,390.00.
3 The change order work had begun before March 10, 2008, the date of the written change order.
4 Also, according to Respondent, during the course of the construction project, Pagan verbally
5 agreed to pay, and did pay, an additional \$10,037.56 for extra work. There was no written
6 contract for this additional work or the additional payment.

7
8 **SIXTH CAUSE FOR DISCIPLINE**
(Received Down payment in Excess of that Allowed by Law)
(Bus. & Prof. § 7159.5(a)(3))

9 31. Complainant re-alleges the allegations contained in paragraphs 19 and 20 above, and
10 incorporates them by reference as if fully set forth.

11 32. Respondent has subjected his Contractor's License to disciplinary action under Code
12 section 7159.5, subdivision (a)(3), in that Respondent requested and received a down payment in
13 excess of what is allowed by law. Specifically, on or about September 10, 2007, Respondent
14 received a down payment from Pagan of \$25,000, an amount statutorily prohibited because it
15 exceeds \$1,000.

16
17 **SEVENTH CAUSE FOR DISCIPLINE**
(Failed to Comply with Provisions of Law Regarding Home Improvement Contracts)
(Bus. & Prof. § 7159.5(a)(5))

18 33. Complainant re-alleges the allegations contained in paragraphs 19 and 20 above, and
19 incorporates them by reference as if fully set forth. The circumstances are as follows:

20 34. Respondent has subjected his Contractor's License to disciplinary action under Code
21 section 7159.5, subdivision (a)(5), in that Respondent received money from Pagan which
22 exceeded the value of his work. Specifically, Pagan paid Respondent \$140,982.35, an amount in
23 excess of the contract. However, Respondent failed to complete the project. Pagan will have to
24 pay another contractor to complete the project including correcting Respondent's mistakes.

25 P R A Y E R

26 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
27 Accusation, and that following the hearing, the Registrar of Contractors issue a decision:
28

- 1 1. Revoking or suspending Contractor's License Number 867548, B issued to Romero
2 Hendrix;
- 3 2. Prohibiting Romero Hendrix from serving as an officer, director, associate, partner, or
4 qualifying individual of any licensee during the period that discipline is imposed on license
5 Number 867548, B, issued to Romero Hendrix;
- 6 3. Revoking or suspending any other license for which Romero Hendrix is furnishing
7 the qualifying experience or appearance;
- 8 4. Ordering restitution of all damages according to proof suffered by Bernadette Pagan,
9 as a condition of probation in the event probation is ordered;
- 10 5. Ordering restitution of all damages suffered by Bernadette Pagan as a result of
11 Romero Hendrix's conduct as a contractor, as a condition of restoration of license Number
12 867548, B, issued to Romero Hendrix;
- 13 6. Ordering Romero Hendrix to pay the Registrar of Contractors his costs in the
14 investigation and enforcement of the case according to proof at the hearing, pursuant to Business
15 and Professions Code section 125.3;
- 16 7. Ordering Romero Hendrix to provide the Registrar with a listing of all contracting
17 projects in progress and the anticipated completion date of each;
- 18 8. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: February 28, 2012


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

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