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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**

11 In the Matter of the Accusation Against:
12 **PRIORITY ONE ELECTRIC**
9018 Balboa Blvd., Unit 617
13 Northridge, CA 91325
DANIEL PATRICK HORAN
14 aka DANIEL PATRICK PLATT, Sole Owner

15 Contractor's License No. 766210,

16 **and**

17 **PRIORITY ONE AFFORDABLE HEATING**
AND AIR
18 1135 Wendy Lane
Big Bear City, CA 92314
19 DANIEL PATRICK HORAN, General Partner;
RICHARD CLAUDE AGUIRRE, Qualifying Partner

20 Contractor's License No. 918119,

21 Respondents.

22 **TRI COUNTY'S BEST ELECTRIC AND**
SERVICE
23 9018 Balboa Blvd., #617
24 Northridge, CA 91325
DANIEL PATRICK HORAN, Sole Owner

25 Contractor's License No. 582423

26 Affiliated Party.
27

28 Complainant alleges:

Case No. N2010-520

A C C U S A T I O N

1 **PARTIES**

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

5 **License Histories**

6 **Priority One Electric**

7 2. On or about July 22, 1999, the Registrar of Contractors (Registrar) issued
8 Contractor's License No. 766210 to Priority One Electric; Daniel Patrick Horan aka Daniel
9 Patrick Platt, Sole Owner (Respondent Priority One Electric). The Contractor's License was in
10 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
11 2013, unless renewed.

12 **Priority One Affordable Heating and Air**

13 3. On or about June 24, 2008, the Registrar issued Contractor's License No. 918119 to
14 Priority One Affordable Heating and Air; Daniel Patrick Horan, General Partner; Richard Claude
15 Aguirre, Qualifying Partner (Respondent Priority One Affordable Heating and Air). The
16 Contractor's License expired on June 30, 2010, and has not been renewed.

17 **Tri County's Best Electric and Service**

18 4. On or about December 7, 1989, the Registrar issued Contractor's License No. 582423
19 to Tri County's Best Electric and Service, Daniel Patrick Horan, Sole Owner (Respondents). The
20 Contractor's License was in full force and effect at all times relevant to the charges brought herein
21 and will expire on December 31, 2013, unless renewed.

22 **JURISDICTION**

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

26 6. Section 118, subdivision (b), provides that the expiration of a license shall not deprive
27 the Registrar of jurisdiction to proceed with a disciplinary action during the period within which
28 the license may be renewed, restored, reissued or reinstated. Under section 7076.1, the Registrar

1 may reinstate a cancelled license if the licensee pays all of the fees and meets all of the
2 qualifications and requirements for obtaining an original license.

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

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

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

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

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

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

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

22 11. Section 7106.5 provides that the expiration, cancellation, forfeiture, or suspension of
23 a license by operation of law or by order or decision of the registrar, or a court of law, or the
24 voluntary surrender of the license shall not deprive the registrar of jurisdiction to proceed with
25 any investigation of or action or disciplinary proceeding against the license, or to render a
26 decision suspending or revoking the license.

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1 12. Section 7121 states:

2 "A person who has been denied a license for a reason other than failure to document
3 sufficient satisfactory experience for a supplemental classification for an existing license, or who
4 has had his or her license revoked, or whose license is under suspension, or who has failed to
5 renew his or her license while it was under suspension, or who has been a partner, officer,
6 director, manager, or associate of any partnership, corporation, limited liability company, firm, or
7 association whose application for a license has been denied for a reason other than failure to
8 document sufficient satisfactory experience for a supplemental classification for an existing
9 license, or whose license has been revoked, or whose license is under suspension, or who has
10 failed to renew a license while it was under suspension, and while acting as a partner, officer,
11 director, manager, or associate had knowledge of or participated in any of the prohibited acts for
12 which the license was denied, suspended, or revoked, shall be prohibited from serving as an
13 officer, director, associate, partner, manager, qualifying individual, or member of the personnel of
14 record of a licensee, and the employment, election, or association of this type of person by a
15 licensee in any capacity other than as a nonsupervising bona fide employee shall constitute
16 grounds for disciplinary action."

17 13. Section 7121.5 states:

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

25 14. Section 7122 states:

26 "The performance by an individual, partnership, corporation, limited liability company,
27 firm, or association of an act or omission constituting a cause for disciplinary action, likewise
28 constitutes a cause for disciplinary action against a licensee other than the individual qualifying

1 on behalf of the individual or entity, if the licensee was a partner, officer, director, manager, or
2 associate of that individual, partnership, corporation, limited liability company, firm, or
3 association at the time the act or omission occurred, and had knowledge of or participated in the
4 prohibited act or omission."

5 15. Section 7122.5 states:

6 "The performance by an individual, partnership, corporation, limited liability company,
7 firm, or association of an act or omission constituting a cause for disciplinary action, likewise
8 constitutes a cause for disciplinary action against a licensee who at the time that the act or
9 omission occurred was the qualifying individual of that individual, partnership, corporation,
10 limited liability company, firm, or association, whether or not he or she had knowledge of or
11 participated in the prohibited act or omission."

12 STATUTORY PROVISIONS

13 16. Section 7068 states, in pertinent part:

14 "(a) The board shall require an applicant to show such degree of knowledge and
15 experience in the classification applied for, and such general knowledge of the building, safety,
16 health, and lien laws of the state and of the administrative principles of the contracting business as
17 the board deems necessary for the safety and protection of the public.

18 "(b) An applicant shall qualify in regard to his or her experience and knowledge in one of
19 the following ways:

20

21 (2) If a copartnership or a limited partnership, it shall qualify by the appearance of a
22 general partner or by the appearance of a responsible managing employee who is qualified for the
23 same license classification as the classification being applied for. . . ."

24 17. Section 7068.1 states, in pertinent part, that the "person qualifying on behalf of an
25 individual or firm . . . shall be responsible for exercising that direct supervision and control of his
26 or her employer's or principal's construction operations as is necessary to secure full compliance
27 with the provisions of this chapter and the rules and regulations of the board relating to the
28 construction operations. . . :

1 18. Section 7114 states:

2 "(a) Aiding or abetting an unlicensed person to evade the provisions of this chapter [the
3 Contractors' State License Law] or combining or conspiring with an unlicensed person, or
4 allowing one's license to be used by an unlicensed person, or acting as agent or partner or
5 associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this
6 chapter constitutes a cause for disciplinary action.

7 "(b) A licensee who is found by the registrar to have violated subdivision (a) shall, in
8 accordance with the provisions of this article, be subject to the registrar's authority pursuant to
9 Section 7099 to order payment of a specified sum to an injured party, including, but not limited
10 to, payment for any injury resulting from the acts of the unlicensed person."

11 19. Section 7115 provides that failure in any material respect to comply with the
12 provisions of the Contractors' State License Law (Business and Professions Code, § 7000, et
13 seq.), or any rule or regulation adopted pursuant to this chapter, constitutes a cause for
14 disciplinary action.

15 20. Section 7116 provides that the doing of any willful or fraudulent act by the licensee
16 as a contractor in consequence of which another is substantially injured constitutes a cause for
17 disciplinary action.

18 21. Section 7117 states that "[a]cting in the capacity of a contractor under any license
19 issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b) in
20 accordance with the personnel of the licensee as set forth in the application for such license, or as
21 later changed as provided in this chapter [the Contractors' License Law], constitutes a cause for
22 disciplinary action."

23 22. Section 7161 states, in pertinent part:

24 "It is a misdemeanor for any person to engage in any of the following acts, the commission
25 of which shall be cause for disciplinary action against any licensee or applicant:

26 "(a) Using false, misleading, or deceptive advertising as an inducement to enter into any
27 contract for a work of improvement, including, but not limited to, any home improvement
28 contract, whereby any member of the public may be misled or injured.

1 **MICHAEL DAVID PLATO**

2 25. Although Michael David Plato was not licensed with the Board, Respondents entered
3 into a business relationship with Michael David Plato, wherein Respondents admittedly allowed
4 Mr. Plato to use license Nos. 918119 and 766210. Respondents would give Mr. Plato customers
5 and dispatch him out to make repairs and do diagnosis from telephone calls it received from its
6 yellow page advertisements as “Affordable Heating & Air Conditioning, License No. 766210.”
7 On or about June 15, 2010, in writing, Respondents terminated their business relationship with
8 Mr. Plato: “. . . Please be advised that effective immediately any connection between yourself
9 and our client is terminated. You are not authorized to represent to any person that you are
10 associated in any way with Priority One Affordable Heating and Air. You are not authorized to
11 perform any service of any kind utilizing the above contractor license. You may not accept any
12 work, perform any service or make any representation of any kind relating to Priority One
13 Affordable Heating and Air. . . .” Subsequently, Respondents made restitution payments to
14 clients for work completed by Mr. Plato.

15 **THOMPSON PROJECT**

16 26. On or about November 11, 2009, Geraldine Robin Thompson, 84 years old, needed
17 her home heater fixed and through an advertisement in the yellow pages found Affordable
18 Heating and Air, License No. 766210. Mrs. Thompson telephoned the number in the
19 advertisement which, connected her to the Respondents. Respondents referred the service call to
20 their unlicensed agent, Michael David Plato. Mr. Plato responded to Mrs. Thompson’s home at
21 2532 Borton Drive, Santa Barbara, California, to provide repair services. After inspecting the
22 heating unit, Mr. Plato informed Mrs. Thompson that she either had to replace the entire heating
23 unit or replace the interior components. Mr. Plato made repairs on the heating unit and issued an
24 invoice¹ for the services provided to Ms. Thompson in the amount of \$932.20. Ms. Thompson
25 paid Mr. Plato \$932.20. In or about March 2010, Ms. Thompson’s heater stopped working again

26 _____
27 ¹ Mr. Plato used a Midstate Refrigeration, License No. 499475, invoice but added the
28 business name Affordable Heating and Air to the invoice, crossing out the name of Midstate
Registration.

1 so she telephoned the Gas Company. A Gas Company technician dusted off and adjusted the
2 thermostat and the heater began working again. The Gas Company technician observed that the
3 only part that Mr. Plato had replaced was the gas valve. According to the invoice, Mr. Plato had
4 charged Mrs. Thompson \$748 for the gas valve (part only) when the actual cost of a gas valve is
5 approximately \$100.

6 On or about February 11, 2011, Respondents reimbursed Ms. Thompson \$732.00 for
7 services rendered.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(False Advertising)**

10 27. Respondents are subject to disciplinary action under sections 7115 and 7161,
11 subdivision (a), in that on the Thompson Project, Respondents used false, misleading, or
12 deceptive telephone yellow page advertising as an inducement to enter into a contract for an
13 injurious work of improvement with its unlicensed agent. Complainant refers to, and hereby
14 incorporates by reference, the allegations contained in paragraph 26, inclusive, above, as though
15 set forth fully.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Substantial Misrepresentation)**

18 28. Respondents are subject to disciplinary action under sections 7115 and 7161,
19 subdivision (b), in that on the Thompson Project, Respondents made substantial
20 misrepresentations in the procurement of a contract for home improvement work. Respondent
21 informed Mrs. Thompson that she needed to replace the entire heating unit or replace the internal
22 components. Respondent then charged Mrs. Thompson \$748 for a part that costs no more than
23 \$100. Complainant refers to, and hereby incorporates by reference, the allegations contained in
24 paragraph 26, inclusive, above, as though set forth fully.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Misrepresentation for Compensation)**

27 29. Respondents are subject to disciplinary action under sections 7115 and 7161,
28 subdivision (d), in that on the Thompson Project, Respondents made substantial

1 misrepresentations in the procurement of a contract for home improvement work by allowing and
2 / or referring an unlicensed person to do business on their behalf for profit and gain, and further
3 giving an incentive to an unlicensed person to charge excessively for work performed.
4 Complainant refers to, and hereby incorporates by reference, the allegations contained in
5 paragraph 26, inclusive, above, as though set forth fully.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Variance from License - Name Style)**

8 30. Respondents are subject to disciplinary action under section 7117, subdivision (a), in
9 that on the Thompson Project, Respondents acted in the capacity of a contractor in the yellow
10 pages using the alternative name style “Affordable Heating and Air Conditioning” and
11 interchanging license numbers between its alternative name style of when their licenses were
12 issued in the name styles:

13 “Priority One Affordable Heating and Air” for license No. 918119, and

14 “Priority One Electric” for license No. 766210.

15 Complainant refers to, and hereby incorporates by reference, the allegations contained in
16 paragraph 26, inclusive, above, as though set forth fully.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Willful or Fraudulent Act Injuring Another)**

19 30. Respondents are subject to disciplinary action under section 7116 in that Respondent
20 committed a willful or fraudulent act as a contractor in consequence of which another was
21 substantially injured. Complainant refers to, and hereby incorporates by reference, the allegations
22 contained in paragraph 26, inclusive, above, as though set forth fully.

23 **OTHER MATTERS**

24 **Priority One Electric**

25 31. Pursuant to sections 7097 and 7098, if license No. 766210 issued to Respondent
26 Priority One Electric is suspended or revoked, the Registrar may suspend or revoke, without
27 notice, any other license issued in the name of Daniel Patrick Horan or for which Daniel Patrick
28 Horan furnished the qualifying experience and appearance.

1 3. Revoking or suspending any other license for which Daniel Patrick Horan is
2 furnishing the qualifying experience or appearance;

3 4. Ordering restitution of all damages according to proof suffered by Geraldine Robin
4 Thompson, as a condition of probation in the event probation is ordered;

5 5. Ordering restitution of all damages suffered by Geraldine Robin Thompson as a result
6 of Daniel Patrick Horan's conduct as a contractor, as a condition of restoration of license No.
7 766210, issued to Priority One Electric; Daniel Patrick Horan aka Daniel Patrick Platt, Sole
8 Owner;

9 6. Ordering Priority One Electric; Daniel Patrick Horan aka Daniel Patrick Platt, Sole
10 Owner to pay the Registrar o his costs in the investigation and enforcement of the case according
11 to proof at the hearing, pursuant to section 125.3;

12 7. Ordering Priority One Electric; Daniel Patrick Horan aka Daniel Patrick Platt, Sole
13 Owner to provide the Registrar with a listing of all contracting projects in progress and the
14 anticipated completion date of each;

15 As to Priority One Affordable Heating and Air

16 8. Revoking or suspending Contractor's License No. 918119 issued to Priority One
17 Affordable Heating and Air; Daniel Patrick Horan, General Partner; Richard Claude Aguirre,
18 Qualifying Partner;

19 9. Prohibiting Daniel Patrick Horan and / or Richard Claude Aguirre from serving as an
20 officer, director, associate, partner, or qualifying individual of any licensee during the period that
21 discipline is imposed on license No. 918119, issued to Priority One Affordable Heating and Air;
22 Daniel Patrick Horan, General Partner; Richard Claude Aguirre, Qualifying Partner;

23 10. Revoking or suspending any other license for which Daniel Patrick Horan and / or
24 Richard Claude Aguirre is/are furnishing the qualifying experience or appearance;

25 11. Ordering restitution of all damages according to proof suffered by Geraldine Robin
26 Thompson, as a condition of probation in the event probation is ordered;

27 12. Ordering restitution of all damages suffered by Geraldine Robin Thompson as a result
28 of Daniel Patrick Horan's and / or Richard Claude Aguirre 's conduct as a contractor, as a

1 condition of restoration of license No. 918119, issued to Priority One Affordable Heating and
2 Air; Daniel Patrick Horan, General Partner; Richard Claude Aguirre, Qualifying Partner;

3 13. Ordering Priority One Affordable Heating and Air; Daniel Patrick Horan, General
4 Partner; Richard Claude Aguirre, Qualifying Partner to pay the Registrar his costs in the
5 investigation and enforcement of the case according to proof at the hearing, pursuant to section
6 125.3;

7 14. Ordering Priority One Affordable Heating and Air; Daniel Patrick Horan, General
8 Partner; Richard Claude Aguirre, Qualifying Partner to provide the Registrar with a listing of all
9 contracting projects in progress and the anticipated completion date of each;

10 As to Tri County's Best Electric and Service

11 15. Revoking or suspending Contractor's License No. 582423 issued to Tri County's Best
12 Electric and Service, Daniel Patrick Horan, Sole Owner;

13 16. Prohibiting Daniel Patrick Horan from serving as an officer, director, associate,
14 partner, or qualifying individual of any licensee during the period that discipline is imposed on
15 license No. 582423, issued to Tri County's Best Electric and Service, Daniel Patrick Horan, Sole
16 Owner;

17 17. Revoking or suspending any other license for which Daniel Patrick Horan is
18 furnishing the qualifying experience or appearance;

19 18. Ordering Tri County's Best Electric and Service, Daniel Patrick Horan, Sole Owner to
20 provide the Registrar with a listing of all contracting projects in progress and the anticipated
21 completion date of each; and

22 As to All

23 19. Taking such other and further action as deemed necessary and proper.

24 DATED: MARCH 13, 2012

25 
26 WOOD ROBINSON
27 Enforcement Supervisor I
28 Contractors' State License Board
Department of Consumer Affairs
State of California
Complainant