

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 State Bar No. 94811
LANGSTON M. EDWARDS
4 State Bar No. 237926
Deputy Attorney General
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2540
Facsimile: (213) 897-2804
7

8 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

15 **EXPRESS ELECTRICAL SERVICE, INC.**
16 P.O. Box 13072
Marina Del Rey, CA 90295
17 **INNA VAYNBERG, RMO**
ILYA BERSHADSKY, Officer

18 Contractor's License No. 651752, C-10

19 Respondent.

20 Case No. N2011-187

21 **A C C U S A T I O N**

22 Complainant alleges:

23 **PARTIES**

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

27 2. On or about August 5, 1992, the Registrar of Contractors (Registrar) issued
28 Contractor's License No. 651752, classification C-10 (general electrical) to Express Electrical
Service; Ilya Bershadsky, Sole Owner. On or about July 18, 2001, the license was suspended,
pursuant to Business and Professions Code section 7125.2 (worker's compensation). On or about

1 July 30, 2001, the license was reinstated. On or about July 31, 2006, the license was reassigned
2 to a corporation with Ilya Bershadsky, Responsible Managing Officer and Inna Vaynberg,
3 Officer. On or about August 18, 2011, Inna Vaynberg became Responsible Managing Officer
4 and Ilya Bershadsky became the Officer. The Contractor's License will expire on July 31, 2014,
5 unless renewed.

6
7 **JURISDICTION**

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

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

13 4. Section 7090 provides, in pertinent part, that the Registrar may suspend or revoke any
14 license or registration if the licensee or registrant is guilty of or commits any one or more of the
15 acts or omissions constituting cause for disciplinary action.

16 5. Section 7095 provides, in pertinent part, that the Registrar in making his order may:

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

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

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

25 6. Section 7097 states:

26 "Notwithstanding the provisions of Sections 7121 and 7122, when any license has been
27 suspended by a decision of the registrar pursuant to an accusation or pursuant to subdivision (b)
28 of Section 7071.17, Section 7085.6 or 7090.1, any additional license issued under this chapter

1 [the Contractors' State License Law] in the name of the licensee or for which the licensee
2 furnished qualifying experience and appearance under the provisions of Section 7068, may be
3 suspended by the registrar without further notice.”

4 7. Section 7098 states:

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

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

15 9. Section 7121 states:

16 “Any person who has been denied a license for a reason other than failure to document
17 sufficient satisfactory experience for a supplemental classification for an existing license, or who
18 has had his or her license revoked, or whose license is under suspension, or who has failed to
19 renew his or her license while it was under suspension, or who has been a member, officer,
20 director, or associate of any partnership, corporation, firm, or association whose application for a
21 license has been denied for a reason other than failure to document sufficient satisfactory
22 experience for a supplemental classification for an existing license, or whose license has been
23 revoked, or whose license is under suspension, or who has failed to renew a license while it was
24 under suspension, and while acting as a member, officer, director, or associate had knowledge of
25 or participated in any of the prohibited acts for which the license was denied, suspended, or
26 revoked, shall be prohibited from serving as an officer, director, associate, partner, or qualifying
27 individual of a licensee, and the employment, election, or association of this type of person by a
28

1 licensee in any capacity other than as a nonsupervising bona fide employee shall constitute
2 grounds for disciplinary action.”

3 10. Section 7121.5 states:

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

10
11 **STATUTORY PROVISIONS**

12 11. Section 7107 states that “[a]bandonment without legal excuse of any construction
13 project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause
14 for disciplinary action.”

15 12. Section 7109(a) states in pertinent part that “[a] willful departure in any material
16 respect from accepted trade standards for good and workmanlike construction constitutes a cause
17 for disciplinary action ...”

18 13. Section 7110 states:

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

27 //

28 //

1 14. Sections 7115 states that “[f]ailure in any material respect to comply with the
2 provisions of this chapter or any rule or regulation adopted pursuant to this chapter ... constitutes
3 a cause for disciplinary action.”

4 15. Section 7116 states that “[t]he doing of any willful or fraudulent act by the licensee as
5 a contractor in consequence of which another is substantially injured constitutes a cause for
6 disciplinary action.”

7 16. Section 7161 states, in pertinent part:

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

10 ...

11 (b) Making any substantial misrepresentation in the procurement of a contract for a home
12 improvement or other work of improvement or making any false promise of character likely to
13 influence, persuade or, 1 induce any person to enter into such a contract.”

14 17. Code section 7159 states, in pertinent part:

15 “(a)(1) This section identifies the projects for which a home improvement contract is
16 required, outlines the contract requirements, and lists the items that shall be included in the
17 contract, or may be provided as an attachment.
18

19 ...
20

21 (c) In addition to the specific requirements listed under this section, every home
22 improvement contract and any person subject to licensure under this chapter or his or her agent or
23 salesperson shall comply with all of the following:

24 ...
25

26 (4) A statement that, upon satisfactory payment being made for any portion of the work
27 performed, the contractor shall, prior to any further payment being made, furnish to the person
28 contracting for the home improvement or swimming pool work a full and unconditional release

1 from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of
2 the work for which payment has been made.

3 ...
4

5 (6) The contract shall contain, in close proximity to the signatures of the owner and
6 contractor, a notice stating that the owner or tenant has the right to require the contractor to have a
7 performance and payment bond.

8 ...
9

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

14 (1) The name, business address, and license number of the contractor.
15

16 ...
17

18 (8) If a down payment will be charged, the details of the down payment shall be expressed
19 in substantially the following form, and shall include the text of the notice as specified in
20 subparagraph (C):

21 ...
22

23 (C) The following statement in at least 12-point boldface type:

24 "THE DOWN PAYMENT MAY NOT EXCEED \$1,000 OR 10
25 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."

26 ...
27

28 (e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the
following notices shall be provided to the owner as part of the contract form as specified or, if
otherwise authorized under this subdivision, may be provided as an attachment to the contract:

1 ...
2 (4) A notice with the heading "Mechanics' Lien Warning" written as follows:

3 "MECHANICS LIEN WARNING:

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

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

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

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

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

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

28 **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."

18. Section 7159.5 states, in pertinent part:

"This section applies to all home improvement contracts, as defined in Section 7151.2,
between an owner or tenant and a contractor, whether a general contractor or a specialty

1 contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the
2 transaction.

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

5 ...

6 (5) Except for a down payment, the contractor may neither request nor accept payment
7 that exceeds the value of the work performed or material delivered.”

8 9 **COST RECOVERY/ RESTITUTION**

10 19. Section 125.3 provides, in pertinent part, that the Registrar may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14
15 20. Government Code section 11519, subdivision (d), provides, in pertinent part, that the
16 Registrar may require restitution of damages suffered as a condition of probation in the event
17 probation is ordered.

18 19 **BACKGROUND FACTS**

20 **Milewski Project**

21 21. On or about December 31, 2011, Elizabeth B. Milewski (Consumer 1) requested that
22 Respondent inspect her home HVAC system.

23 22. Respondent's technician Arwin (Technician 1) informed Consumer 1 that the
24 electrical power to the HVAC system was fine, but suggested that two (2) 20 amp breakers be
25 replaced because they posed a fire hazard.

26 23. Technician 1 stated that the breakers were letting out more amps than they could
27 handle causing the wires to overheat and burn.

28 24. Consumer 1 was given a quote for approximately \$843.00 to replace two breakers.

1 25. Consumer 1 obtained a second bid for the work from Barker & Sons (Barker) and
2 was informed that the breakers operated properly and did not require replacement as
3 recommended by Respondent (Barker informed Consumer 1 that the cost to replace the breakers,
4 even if necessary, would be \$100.00.).

5 26. Barker informed Consumer 1 that her breaker wires appeared to have been purposely
6 charred and burned with a lighter and that the burning was not caused by electrical overheating.

7 27. When Consumer 1 contacted Respondent, she was threatened by Respondent's
8 technician and Respondent. Consumer 1 was charged \$59.00 for the service call.

9 28. Respondent stated that she "never had any issues with [Technician 1]" before.

10
11 Kish Project

12 29. On or about March 19, 2011, Susan Kish (Consumer 2), an elderly woman residing
13 alone entered into a written contract with Respondent to repair the power in the kitchen area of
14 her home.

15 30. Respondent recommended that Consumer 2 replace three (3) circuit breakers for a
16 total of \$725.97. Respondent's technician performed the work in one (1) hour and Respondent
17 paid in for the work, in full, the same day.

18 31. The circuit breakers were later determined to be in proper working condition and did
19 not require replacement.

20 32. Consumer 2 later contacted Respondent to establish that she was overcharged for the
21 work and to complain about the quality of the work, including but not limited to the fact that
22 Respondent's technician installed a 15 amp circuit in the kitchen rather than the recommended 20
23 amp circuit. Consumer 2 also learned that two circuit breakers were installed incorrectly.
24 Respondent's technician also installed a 40 amp fuse circuit in the fuse box rather than the
25 recommended 30 amp. Finally, Consumer 2 learned that the fuse breakers were missing adapters
26 for safety purposes.

27 33. In response to Consumer 2's complaints, Respondent failed to return to inspect the
28 work and "had an attitude" with Consumer 2 on the phone.

1 34. Work began on or about March 19, 2011 and was last performed on or about March
2 19, 2011. Respondent was paid a total of \$725.97.

3
4 Moreman Project

5 35. On or about December 23, 2010, Harry Moreman (Consumer 3), an elderly man,
6 entered into a written contract with Respondent to repair the bathroom lights in his home.

7 36. Technician 1 recommended that Consumer 3 replace all ten of his circuit breakers for
8 a total of \$4,251.60.

9 37. Technician 1 represented that "several circuit breakers had evidence of fire in the
10 panel box." Technician 1 represented that "it was dangerous and another fire could happen again.

11 38. Technician 1 performed the repairs in two (2) hours.

12 39. Merely two weeks later, the lights in Consumer 3's bathroom went out again.
13 Consumer 3 contacted Respondent to complain about the work performed.

14 40. Respondent again dispatched Technician 1 who represented that the bathroom heater
15 needed replacement.

16 41. It was determined that Respondent performed the work incorrectly in the following
17 regards: The circuit breakers were null and void and the entire box should have been replaced;
18 Respondent failed to obtain a permit for the project.

19 42. Respondent failed to comply with provisions of the law regarding home improvement
20 contracts.

21 43. It was later determined that Respondent overcharged Consumer 3 by approximately
22 \$3,411.60.

23 44. Respondent failed to complete the work, which will require an additional cost to
24 complete.

25 45. Work began on or about December 23, 2010 and was last performed on or about
26 December 23, 2010. Respondent was paid a total of \$4,251.60.

27 //

28 //

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Abandonment)**

3 46. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code §7107, in
4 that on the Moreman Project, Respondent abandoned the Moreman project without legal excuse.
5 Complainant incorporates by reference, paragraphs 35 – 45 as if fully set forth herein.

6
7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Departure from Trade Standards)**

9 47. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code §7109, in
10 that in that on the Kish Project and the Moreman Project, Respondent departed in material
11 respects from accepted trade standards for good and workmanlike construction. Complainant
12 incorporates by reference, paragraphs 29 – 45 as if fully set forth herein.

13
14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Failed to Obtain Permits)**

16 48. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code §7110, in
17 that in that on the Moreman Project, Respondent willfully or deliberately disregarded the building
18 laws of this state by failing to obtain the necessary permits to perform the contracted work.
19 Complainant incorporates by reference, paragraphs 35 – 45 as if fully set forth herein.

20
21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Noncompliance)**

23 49. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code §7115, in
24 that in that on the Milewski Project, Kish Project and Moreman Project, Respondent failed to
25 comply with various rules, regulations and/or provisions of the relevant chapters of the Bus. &
26 Prof. Code. Complainant incorporates by reference, paragraphs 21 – 45 as if fully set forth
27 herein.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Willful or Fraudulent Acts Causing Substantial Injury to Another)**

3 50. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code § 7116, in
4 that on the Kish Project and Moreman Project, Respondent committed willful or fraudulent acts
5 causing substantial injury to Consumer 2 and Consumer 3, by taking advantage of a disabled &
6 elderly homeowners, providing services that were not requested and overcharged for the services,
7 which caused substantial injury to both consumers. Complainant incorporates by reference,
8 paragraphs 29 – 45 as if fully set forth herein.

9
10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Misrepresentation in Obtaining Contract)**

12 51. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code § 7161,
13 subdivision (b), in that on the Milewski Project, Kish Project and Moreman Project, Respondent
14 made substantial misrepresentations in the procurement of a contract for work improvement.
15 Complainant incorporates by reference, paragraphs 21 – 45 as if fully set forth herein.

16
17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Violation of Home Improvement Contract Specific Provisions)**

19 52. Respondent is subject to disciplinary action under Bus. & Prof. Code § 7159, in that
20 on the Kish Project and Moreman Project, Respondent violated the requirements of home
21 improvement contract provisions as provided by law. Complainant incorporates by reference,
22 paragraphs 29 – 45 as if fully set forth herein.

23
24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Violation of Home Improvement Contract Specific Provisions)**

26 53. Respondent is subject to disciplinary action under section 7159.5, subdivision (a)(5),
27 in that on the Kish Project and Moreman Project, Respondent violated the home improvement
28 contract provisions of the law, by requesting and/or accepting payment that exceeds the value of

1 the work performed or materials delivered. Complainant incorporates by reference, paragraphs 29
2 – 45 as if fully set forth herein.

3
4 **OTHER MATTERS**

5 54. Pursuant to sections 7097 and 7098, if license no. 651752 issued to Respondent is
6 suspended or revoked, the Registrar may suspend or revoke, without notice, any other license
7 issued in the name of Ilya Bershadsky or for which Ilya Bershadsky furnished the qualifying
8 experience and appearance.

9 55. Pursuant to section 7121, if discipline is imposed on license no. 651752 issued to
10 Respondent, Ilya Bershadsky shall be prohibited from serving as an officer, director, associate,
11 partner, manager, or qualifying individual, or member of the personnel of record of a licensee of
12 any licensee during the time the discipline is imposed, and any licensee which employs, elects, or
13 associates Inna Vaynberg or Ilya Bershadsky shall be subject to disciplinary action.

14 56. Pursuant to Section 7121.5, if discipline is imposed on license no. 651752 issued to
15 Respondent, Ilya Bershadsky shall be prohibited from serving as an officer, director, associate,
16 partner, manager, or qualifying individual of any licensee during the time the discipline is
17 imposed, whether or not he had knowledge or participated in the acts or omissions constituting
18 grounds for discipline, and any licensee which employs, elects, or associates Inna Vaynberg or
19 Ilya Bershadsky shall be subject to disciplinary action.

20
21 **PRAYER**

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

24 1. Revoking or suspending Contractor's License No. 651752 issued to Express
25 Electrical Service, Inc., with Inna Vaynberg as Responsible Managing Officer and Ilya
26 Bershadsky as Officer.

27 2. Prohibiting Inna Vaynberg from serving as an officer, director, associate, partner, or
28 qualifying individual of any licensee during the period that discipline is imposed on license no.

1 651752, issued to Express Electrical Service, Inc., with Inna Vaynberg as Responsible Managing
2 Officer and Ilya Bershadsky as Officer.

3 3. Revoking or suspending any other license for which Inna Vaynberg is furnishing the
4 qualifying experience or appearance;

5 4. Prohibiting Ilya Bershadsky from serving as an officer, director, associate, partner, or
6 qualifying individual of any licensee during the period that discipline is imposed on license no.
7 651752, issued to Express Electrical Service, Inc., with Inna Vaynberg as Responsible Managing
8 Officer and Ilya Bershadsky as Officer.

9 5. Revoking or suspending any other license for which Ilya Bershadsky is furnishing the
10 qualifying experience or appearance;

11 6. Ordering restitution of all damages according to proof suffered by Elizabeth B.
12 Milewski, Susan Kish and Harry Moreman, as a condition of probation in the event probation is
13 ordered;

14 7. Ordering restitution of all damages suffered, as a result of Respondent's conduct as a
15 contractor, as a condition of restoration of license no. 651752, issued to Express Electrical
16 Service, Inc., with Inna Vaynberg as Responsible Managing Officer and Ilya Bershadsky as
17 Officer;

18 8. Ordering Express Electrical Service, Inc., with Inna Vaynberg as Responsible
19 Managing Officer and Ilya Bershadsky as Officer, to pay the Registrar of Contractors his costs in
20 the investigation and enforcement of the case according to proof at the hearing, pursuant to
21 section 125.3;

22 9. Ordering Express Electrical Service, Inc., with Inna Vaynberg as Responsible
23 Managing Officer and Ilya Bershadsky as Officer, to provide the Registrar with a listing of all
24 contracting projects in progress and the anticipated completion date of each;

25 //

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: October 31, 2012



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

LA2011505486
51179642.docx