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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 Accusation Against:

Case No. N2011-461

12 **ROYAL FLUSH PLUMBING**  
13 **1610 Lexington Avenue**  
14 **El Cerrito, California 94530**  
15 **DOUGLAS SPENCER ROYAL, Sole**  
**Owner**  
**Contractors License Number 813290, C-36**

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

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about October 2, 2002, the Registrar of Contractors (Registrar) issued  
25 Contractor License Number 813290, classification C-36 (Plumbing), to Respondent Royal Flush  
26 Plumbing; Douglas Spencer Royal, Sole Owner. This license expired on October 31, 2010, and  
27 has not been renewed.

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1 circumstances or facts which, under the provisions of Sections 7044, 7045, 7046, and 7048,  
2 would otherwise exempt the person or his or her operations from the provisions of this chapter.”

3 7. Section 7106.5 provides:

4 “The expiration, cancellation, forfeiture, or suspension of a license by operation of law or  
5 by order or decision of the registrar or a court of law, or the voluntary surrender of a license by a  
6 licensee shall not deprive the registrar of jurisdiction to proceed with any investigation of or  
7 action or disciplinary proceeding against the license, or to render a decision suspending or  
8 revoking the license.”

### 9 STATUTORY PROVISIONS

10 8. Section 7083.1 provides:

11 “A licensee whose license is expired or suspended, and is renewable under Section 7141, or  
12 whose license is canceled, shall notify the registrar in writing of a change of address of record  
13 within 90 days, and shall maintain a current address of record during the five-year period  
14 immediately following the expiration or cancellation of the license.”

15 9. Section 7107 provides:

16 “Abandonment without legal excuse of any construction project or operation engaged in or  
17 undertaken by the licensee as a contractor constitutes a cause for disciplinary action.”

18 10. Section 7111.1 provides:

19 “The failure of, or refusal by, a licensee to respond to a written request of the registrar to  
20 cooperate in the investigation of a complaint against that licensee constitutes a cause for  
21 disciplinary action.”

22 11. Section 7115 provides:

23 “Failure in any material respect to comply with the provisions of this chapter, or any rule or  
24 regulation adopted pursuant to this chapter, or to comply with the provisions of Section 7106 of  
25 the Public Contract Code, constitutes a cause for disciplinary action.”

26 12. Section 7116 provides:

27 “The doing of any wilful or fraudulent act by the licensee as a contractor in consequence of  
28 which another is substantially injured constitutes a cause for disciplinary action.”

1 13. Section 7117 provides:

2 “Acting in the capacity of a contractor under any license issued hereunder except: (a) in the  
3 name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the  
4 licensee as set forth in the application for such license, or as later changed as provided in this  
5 chapter, constitutes a cause for disciplinary action.”

6 14. Section 7117.5, subdivision (c), provides:

7 “Acting in the capacity of a contractor under any license that has expired constitutes a cause  
8 for disciplinary action if the license is subject to renewal pursuant to Section 7141. The actions  
9 authorized under this section shall be separate from, and in addition to, all other remedies either  
10 civil or criminal.”

### 11 **COST RECOVERY/RESTITUTION**

12 15. Section 125.3, subdivision (a), provides:

13 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
14 proceeding before any board within the department or before the Osteopathic Medical Board  
15 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
16 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
17 to exceed the reasonable costs of the investigation and enforcement of the case.”

18 16. Government Code section 11519, subdivision (d), provides, in pertinent part

19 “[S]pecified terms of probation may include an order of restitution. Where restitution is  
20 ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited  
21 to any subsequent judgment in a civil action.”

### 22 **FACTUAL BACKGROUND**

23 17. On or about November 7, 2011, Todd Oliver, a general contractor, subcontracted with  
24 Respondent to install a tankless water heater and perform additional plumbing at a residence in  
25 Orinda, California. At the time, Respondent’s contractor’s bond had been cancelled and his  
26 Contractor Licence Number 813290 had been expired since 2010. The contract price was for  
27 \$8700.00; the contract states that Oliver gave Respondent a \$3000.00 deposit at the time of

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1 signing. Although the contract did not include an estimated start or completion date for the  
2 project, Respondent told Oliver that he would start the project within a few days.

3 18. Respondent rescheduled starting the project with Oliver on four or five occasions.  
4 When Respondent continued to fail to start, Oliver then repeatedly tried to contact Respondent to  
5 get his deposit returned. Respondent did not return Oliver's calls. Respondent never returned  
6 Oliver's \$3000.00 deposit or do any work on the project.

7 19. In December 2011, Respondent's website listed Royal Flush Plumbing's license  
8 number as 945398. This contractor license in fact belongs to Everest Plumbing and Drain;  
9 Tsering Chomphel, Sole Owner. Chomphel is a former employee who stated that he stopped  
10 working for Respondent in or about August 2009, and received his own license in April 2010.  
11 Chomphel did not give Respondent permission to use his license number on the site, and was not  
12 aware that Respondent was using his license number until he received a telephone call in  
13 December 2011. Chomphel then contacted Respondent, who said that it was the fault of his  
14 website designer. Chomphel said that his license number was removed from the site in January  
15 2012.

16 20. On or about December 14, 2011, the Board sent a contact letter to Respondent at his  
17 business address of record requesting his cooperation in the Board's investigation. It was  
18 returned to sender as not deliverable and unable to be forwarded. On or about January 11, 2012,  
19 the Board sent another contact letter to Respondent at an alternate address provided by Oliver  
20 requesting his cooperation in the Board's investigation. It also was returned to sender as not  
21 deliverable and unable to be forwarded. On or about April 5, 2012, the Board sent another  
22 contact letter to Respondent at his personal address of record requesting his cooperation in the  
23 Board's investigation.

24 21. On or about April 5, 2012, the Board sent a contact email to Respondent at the  
25 address advertised on his website.

26 22. On or about April 5 and April 25, 2012, the Board left telephone messages for  
27 Respondent at his business number of record. On or about April 25, 2012, the Board tried to call  
28 Respondent at his personal number of record. That number was disconnected.

1 23. To date, Respondent has not contacted the Board about this matter.

2 **FIRST CAUSE FOR DISCIPLINE**  
3 **Failure to Notify Registrar of Changes in Recorded Information of Expired License**  
4 **(Bus. & Prof. Code, §§ 7083.1, 7115)**

5 24. The allegations in paragraphs 2 and 20-23 are realleged and incorporated by reference  
6 as if fully set forth.

7 25. Respondent has subjected his license to disciplinary action under section 7115, in that  
8 he failed to notify the Registrar of changes in its recorded information pursuant to section 7083.1.  
9 As set forth in paragraphs 2 and 20-23 above, Respondent's license expired in 2010 and the  
10 Board could not contact Respondent at any of his addresses and telephone numbers of record.

11 **SECOND CAUSE FOR DISCIPLINE**  
12 **Abandonment of Contract**  
13 **(Bus. & Prof. Code, § 7107)**

14 26. The allegations in paragraphs 17-18 are realleged and incorporated by reference as if  
15 fully set forth.

16 27. Respondent has subjected his license to disciplinary action under section 7107 for  
17 abandoning a contract. As set forth in paragraphs 17-18 above, Respondent accepted Todd  
18 Oliver's \$3000.00 deposit and failed to complete without legal excuse the subcontracted work for  
19 Oliver.

20 **THIRD CAUSE FOR DISCIPLINE**  
21 **Failure to Respond to Request to Cooperate in an Investigation**  
22 **(Bus. & Prof. Code, § 7111.1)**

23 28. The allegations in paragraphs 20-23 are realleged and incorporated by reference as if  
24 fully set forth.

25 29. Respondent has subjected his license to disciplinary action under section 7111.1 for  
26 failing to respond to a written request to cooperate in an investigation. As set forth in paragraphs  
27 20-23 above, Respondent failed to respond to letters from the Board requesting his cooperation in  
28 the Board's investigation.

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1 **OTHER MATTERS**

2 36. Section 7095 provides:

3 “The [Registrar’s disciplinary decision] may:

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

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

8 “(c) Impose upon the licensee compliance with such specific conditions as may be just in  
9 connection with its operations as a contractor disclosed at the hearing and may further provide  
10 that until such conditions are complied with no application for restoration of the suspended or  
11 revoked license shall be accepted by the registrar.”

12 37. Section 7097 provides:

13 “Notwithstanding the provision of Sections 7121 and 7122, when any license has been  
14 suspended by a decision of the registrar pursuant to an accusation or pursuant to subdivision (b)  
15 of Section 7071.17, Section 7085.6 or 7090.1, any additional license issued under this chapter in  
16 the name of the licensee or for which the licensee furnished qualifying experience and appearance  
17 under the provisions of Section 7068, may be suspended by the registrar without further notice.”

18 38. Section 7098 provides:

19 “Notwithstanding the provisions of Sections 7121 and 7122, when any license has been  
20 revoked under the provisions of this chapter [Bus. & Prof. Code, § 7000 et seq.], any additional  
21 license issued under this chapter in the name of the licensee or for which the licensee furnished  
22 qualifying experience and appearance under the provisions of Section 7068, may be revoked by  
23 the registrar without further notice.”

24 39. Section 7121 provides:

25 “A person who has been denied a license for a reason other than failure to document  
26 sufficient satisfactory experience for a supplemental classification for an existing license, or who  
27 has had his or her license revoked, or whose license is under suspension, or who has filed to  
28 renew his or her license while it was under suspension, or who has been a partner, officer,

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

12 40. Section 7121.5 provides:

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

20 41. Section 7122 provides:

21 “The performance by an individual, partnership, corporation, limited liability company,  
22 firm, or association of an act or omission constituting a cause for disciplinary action, likewise  
23 constitutes a cause for disciplinary action against a licensee other than the individual qualifying  
24 on behalf of the individual or entity, if the licensee was a partner, officer, director, manager, or  
25 associate of that individual, partnership, corporation, limited liability company, firm, or  
26 association at the time the act or omission occurred, and had knowledge of or participated in the  
27 prohibited act or omission.”

28 42. Section 7122.5 provides:



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

DATED: July 13, 2012

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

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