

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. N2014-246

13 **JH CONSTRUCTION,**  
**JUAN CARLOS HERNANDEZ, OWNER**  
14 **5062 Noble Street**  
**Riverside, CA 92503**

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

15 **Contractor's License No. 964626**

16 Respondent.  
17

18  
19 Complainant alleges:

20 **PARTIES**

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

24 2. On August 18, 2011, the Registrar of Contractors issued Contractor's License  
25 Number 964626 to Juan Carlos Hernandez (Respondent), sole owner of JH Construction. The  
26 Contractor's License was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on August 31, 2015, unless renewed.

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## JURISDICTION

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

6           4.       Code section 7076.5, subdivision (h) provides that the inactive status of a license  
7 shall not bar any disciplinary action by the board against a licensee for any of the causes stated in  
8 this chapter.

9           5.       Code section 7090 provides, in pertinent part, that the Registrar may suspend or  
10 revoke any license if the licensee is guilty of or commits any one or more of the acts or  
11 omissions constituting cause for disciplinary action.

12           6.       Code section 7095 states, in pertinent part, that the Registrar in making his order  
13 may:

14                   (a) Provide for the immediate complete suspension by the licensee of all  
15 operations as a contractor during the period fixed by the decision;

16                   (b) Permit the licensee to complete any or all contracts shown by  
17 competent evidence taken at the hearing to be then uncompleted; and

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

23           7.       Code section 7096 states:

24                   For the purposes of this chapter, the term “licensee” shall include an  
25 individual, partnership, corporation, limited liability company, joint venture, or  
26 any combination or organization licensed under this chapter, and shall also  
27 include any named responsible managing officer, responsible managing manager,  
28 responsible managing member, or personnel of that licentiate whose appearance  
has qualified the licentiate under the provisions of Section 7068.

          8.       Code section 7097 states:

                  Notwithstanding the provisions of Sections 7121 and 7122, when any  
license has been suspended by a decision of the registrar pursuant to an accusation  
or pursuant to subdivision (b) of Section 7071.17, Section 7085.6 or 7090.1, any  
additional license issued under this chapter [the Contractors’ State License Law]

1 in the name of the licensee or for which the licensee furnished qualifying  
2 experience and appearance under the provisions of Section 7068, may be  
suspended by the registrar without further notice.

3 9. Code section 7098 states:

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

8 10. Code section 7106.5 provides that the expiration, cancellation, forfeiture, or  
9 suspension of a license by operation of law or by order or decision of the Registrar or a court of  
10 law, or the voluntary surrender of a license by a licensee shall not deprive the Registrar of  
11 jurisdiction to proceed with any investigation of, or action, or disciplinary proceeding against the  
12 license, or to render a decision suspending or revoking the license. Under Code section 7141, a  
13 license may be renewed at any time within five years after its expiration.

14 11. Code section 7115 states:

15 Failure in any material respect to comply with the provisions of this  
16 chapter, or any rule or regulation adopted pursuant to this chapter, or to comply  
17 with the provisions of Section 7106 of the Public Contract Code, constitutes a  
cause for disciplinary action.

18 12. Code section 7121 states:

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

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13. Code section 7121.5 states:

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

14. Code section 7122 states:

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

**STATUTORY PROVISIONS**

15. Code section 7059.1, subdivision (b) states:

A licensee shall not conduct business under more than one name for each license. Nothing in this section shall prevent a licensee from obtaining a business name change as otherwise provided by this chapter.

16. Code section 7109 states, in pertinent part:

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

....

17. Code section 7116 states:

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

18. Code section 7117 states:

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

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19. Code section 7159 states, in pertinent part:

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

....

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

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

....

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

....

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

“You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started.”

(5) The heading: “Contract Price,” followed by the amount of the contract in dollars and cents.

....

(7) The heading: “Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed,” followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

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

(A) The heading: “Downpayment.”

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:  
“THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”

///

1 (9) If payments, other than the downpayment, are to be made  
2 before the project is completed, the details of these payments, known as progress  
3 payments, shall be expressed in substantially the following form, and shall  
include the text of the statement as specified in subparagraph (C):

4 (A) A schedule of progress payments shall be preceded by the  
heading: "Schedule of Progress Payments."

5 (B) Each progress payment shall be stated in dollars and cents  
6 and specifically reference the amount of work or services to be performed and  
materials and equipment to be supplied.

7 (C) The section of the contract reserved for the progress  
8 payments shall include the following statement in at least 12-point boldface type:

9 "The schedule of progress payments must specifically describe each phase  
10 of work, including the type and amount of work or services scheduled to be  
11 supplied in each phase, along with the amount of each proposed progress  
12 payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT  
PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS  
NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A  
DOWNPAYMENT."

13 (10) The contract shall address the commencement of work to be  
performed in substantially the following form:

14 (A) A statement that describes what constitutes substantial  
15 commencement of work under the contract.

16 (B) The heading: "Approximate Start Date."

17 (C) The approximate date on which work will be  
commenced.

18 (11) The estimated completion date of the work shall be referenced  
in the contract in substantially the following form:

19 (A) The heading: "Approximate Completion Date."

20 (B) The approximate date of completion.

21 (12) If applicable, the heading: "List of Documents to be  
22 Incorporated into the Contract," followed by the list of documents incorporated  
into the contract.

23 (13) The heading: "Note About Extra Work and Change Orders,"  
followed by the following statement:

24 "Extra Work and Change Orders become part of the contract once the  
25 order is prepared in writing and signed by the parties prior to the commencement  
26 of work covered by the new change order. The order must describe the scope of  
the extra work or change, the cost to be added or subtracted from the contract, and  
the effect the order will have on the schedule of progress payments."

27 (e) Except as provided in paragraph (8) of subdivision (a) of Section  
28 7159.5, all of the following notices shall be provided to the owner as part of the

1 contract form as specified or, if otherwise authorized under this subdivision, may  
2 be provided as an attachment to the contract:

3 (1) A notice concerning commercial general liability insurance.  
4 This notice may be provided as an attachment to the contract if the contract  
5 includes the following statement: "A notice concerning commercial general  
6 liability insurance is attached to this contract." The notice shall include the  
7 heading "Commercial General Liability Insurance (CGL)," followed by  
8 whichever of the following statements is both relevant and correct:

9 (A) "(The name on the license or 'This contractor') does not  
10 carry commercial general liability insurance."

11 (B) "(The name on the license or 'This contractor') carries  
12 commercial general liability insurance written by (the insurance company). You  
13 may call (the insurance company) at \_\_\_\_\_ to check the contractor's  
14 insurance coverage."

15 (C) "(The name on the license or 'This contractor') is self-  
16 insured."

17 (2) A notice concerning workers' compensation insurance. This  
18 notice may be provided as an attachment to the contract if the contract includes  
19 the statement: "A notice concerning workers' compensation insurance is attached  
20 to this contract." The notice shall include the heading "Workers' Compensation  
21 Insurance" followed by whichever of the following statements is correct:

22 (A) "(The name on the license or 'This contractor') has no  
23 employees and is exempt from workers' compensation requirements."

24 (B) "(The name on the license or 'This contractor') carries  
25 workers' compensation insurance for all employees."

26 (3) A notice that provides the buyer with the following information  
27 about the performance of extra or change-order work:

28 (A) A statement that the buyer may not require a contractor to  
perform extra or change-order work without providing written authorization prior  
to the commencement of work covered by the new change order.

(B) A statement informing the buyer that extra work or a  
change order is not enforceable against a buyer unless the change order also  
identifies all of the following in writing prior to the commencement of work  
covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress  
payments or the completion date.

(C) A statement informing the buyer that the contractor's  
failure to comply with the requirements of this paragraph does not preclude the

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1 recovery of compensation for work performed based upon legal or equitable  
2 remedies designed to prevent unjust enrichment.

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

5 **MECHANICS' LIEN WARNING:**

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

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

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

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

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

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

**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 Internet Web site at  
[www.cslb.ca.gov](http://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.

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....

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

- (i) Negotiated at the contractor's place of business.
- (ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.

(C) The "Three-Day Right to Cancel" notice required by this paragraph shall comply with all of the following:

- (i) The text of the notice is at least 12-point boldface type.

....

(ii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

....

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

///

1 "Notice of Cancellation"

2 /enter date of transaction/  
3 \_\_\_\_\_

4 (Date)

5 You may cancel this transaction, without any penalty or obligation, within  
6 three business days from the above date.

7 If you cancel, any property traded in, any payments made by you under  
8 the contract or sale, and any negotiable instrument executed by you will be  
9 returned within 10 days following receipt by the seller of your cancellation notice,  
10 and any security interest arising out of the transaction will be canceled.

11 If you cancel, you must make available to the seller at your residence, in  
12 substantially as good condition as when received, any goods delivered to you  
13 under this contract or sale, or you may, if you wish, comply with the instructions  
14 of the seller regarding the return shipment of the goods at the seller's expense and  
15 risk.

16 If you do make the goods available to the seller and the seller does not  
17 pick them up within 20 days of the date of your notice of cancellation, you may  
18 retain or dispose of the goods without any further obligation. If you fail to make  
19 the goods available to the seller, or if you agree to return the goods to the seller  
20 and fail to do so, then you remain liable for performance of all obligations under  
21 the contract.

22 To cancel this transaction, mail or deliver a signed and dated copy of this  
23 cancellation notice, or any other written notice, or send a telegram

24 to \_\_\_\_\_,

25 /name of seller/

26 at \_\_\_\_\_,

27 /address of seller's place of business/

28 not later than midnight of \_\_\_\_\_.

(Date)

I hereby cancel this transaction. \_\_\_\_\_

(Date)

\_\_\_\_\_  
(Buyer's signature)

20. Code section 7159.5 states:

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

25 (a) Failure by the licensee or a person subject to be licensed under this  
26 chapter, or by his or her agent or salesperson to comply with the following  
27 provisions is cause for discipline:  
28

1 (1) The contract shall be in writing and shall include the agreed contract  
2 amount in dollars and cents. The contract amount shall include the entire cost of  
the contract, including profit, labor, and materials, but excluding finance charges.

3 . . . .

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

6 . . . .

7 **COST RECOVERY**

8 21. Code Section 125.3 provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations  
10 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
12 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
13 may be included in a stipulated settlement.

14 **RESTITUTION**

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

18 **GH PROJECT**

19 23. On February 1, 2012, the water heater in GH's home in Riverside, California  
20 caught fire. While the fire was contained in the immediate area, smoke and chemicals caused  
21 damage throughout the house. Responding fire fighters broke most of the windows. On February  
22 4, 2012, GH entered into a contract with Juan Carlos Hernandez (Respondent), for the  
23 reconstruction of GH's fire damaged home for an unspecified amount (GH Project). Respondent  
24 would base the contract amount on what would be approved by GH's insurance company.

25 24. Contractor's license number 964626 was issued to Respondent as sole owner of  
26 JH Construction. However, Respondent's contract with GH had the following inscriptions on the  
27 heading, "JH Construction Fire Restoration" and "Juan Hernandez Construction." There was a  
28 verbal change order, for an unspecified amount, to replace the existing interior plaster with

1 drywall and apply the difference in price to other items of work. Respondent promised to replace  
2 all windows, install new wood floors, install concrete over the old swimming pool hole, and  
3 install insulation over the northwest bedroom.

4 25. GH's insurance company estimated the repairs at \$65,00.00, and in June 2012,  
5 issued a check for \$54,000.00, which the public adjuster rejected. The public adjuster's estimate  
6 of the repairs was at \$160,000.00. After arbitration, the agreed replacement cost between the  
7 insurance company and the public adjuster was \$124,612.65, with an all cash depreciated value  
8 of \$117,008.08. It was at this time when Respondent prepared an addendum to the February 4,  
9 2012 contract indicating the cost of the GH Project to be \$116,008.17. In November 2012, the  
10 insurance company issued two checks totaling \$116,008.09, which both cleared on December 18,  
11 2012. The amount was deposited into GH's bank account, which would be subject to three  
12 releases of \$38,669.36 each at various phases of the GH Project.

13 26. On May 15, 2012, a permit related to work on the swimming pool was issued. The  
14 work was subject to a final inspection. On November 8, 2012, GH received a correction notice  
15 from the City of Jurupa Valley for failure to obtain a permit for fire damage general repair. On  
16 November 15, 2012, a permit was issued for fire damage reconstruction, which had not been  
17 finalized, and work began on the GH Project. On December 6, 2012, GH authorized the release  
18 of the first third of the payment in Respondent's name. On January 22, 2013, GH received a  
19 correction notice to stop all general repair works until plans were submitted and approved. On  
20 January 25, 2013, GH received a correction notice for failure to display a job card on the job site.  
21 On January 30, 2013, GH's bank released to Respondent the first check payment of \$38,669.36.  
22 On March 14, 2013, GH received a correction notice for failure to have an approved plan at the  
23 jobsite. GH's bank released to Respondent the second check payment of \$38,669.36 on March  
24 20, 2013, the day Respondent last performed work on the GH Project. The windows had not  
25 been replaced, new wood floors were not installed, the swimming pool hole had not been filled  
26 with concrete, and insulation had not been installed over the northwest bedroom. Respondent  
27 offered to complete the project but GH felt that Respondent only wanted to get the remaining  
28 \$38,669.36 with no intention of finishing the job.





1 h. **Subdivision (d)(8)(A)**: Respondent failed to provide the heading:  
2 “Downpayment.”

3 i. **Subdivision (d)(8)(B)**: Respondent failed to provide a space where the actual  
4 downpayment appears.

5 j. **Subdivision (d)(8)(C)**: Respondent failed to provide the following statement in at  
6 least 12-point boldface type: “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10  
7 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”

8 k. **Subdivision (d)(9)**: Respondent failed to provide the required details as to  
9 progress payments.

10 l. **Subdivision (d)(9)(A)**: Respondent failed to provide the required format as to  
11 additional payments known as progress payments as identified below:

12 A heading: “Schedule of Progress Payments.”

13 m. **Subdivision (d)(9)(B)**: Respondent failed to provide the required details as to  
14 progress payments in dollars and cents and specifically reference the amount of work or services  
15 to be performed and materials and equipment to be supplied.

16 n. **Subdivision (d)(9)(C)**: Respondent failed to include on the contract the following  
17 statement in at least 12-point boldface type:

18 “The schedule of progress payments must specifically describe each phase  
19 of work, including the type and amount of work or services scheduled to be  
20 supplied in each phase, along with the amount of each proposed progress  
21 payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT  
22 PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS  
23 NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A  
24 DOWNPAYMENT.”

23 o. **Subdivision (d)(10)**: Respondent failed to include on the contract a statement that  
24 addressed the commencement of work to be performed.

25 p. **Subdivision (d)(10)(A)**: Respondent failed to include on the contract a statement  
26 describing what constitutes substantial commencement of work under the contract.

27 q. **Subdivision (d)(10)(B)**: Respondent failed to include on the contract the heading:  
28 “Approximate Start Date.”

- 1           r.       **Subdivision (d)(10)(C)**: Respondent failed to include on the contract the  
2 approximate date on which work will be commenced.
- 3           s.       **Subdivision (d)(11)**: Respondent failed to include on the contract a statement that  
4 addressed the estimated completion date of the work.
- 5           t.       **Subdivision (d)(11)(A)**: Respondent failed to include on the contract the heading:  
6 “Approximate Completion Date.”
- 7           u.       **Subdivision (d)(11)(B)**: Respondent failed to include on the contract the  
8 approximate date of completion.
- 9           v.       **Subdivision (d)(12)**: Respondent failed to include on the contract the required  
10 heading and the list of documents incorporated into the contract.
- 11          w.       **Subdivision (d)(13)**: Respondent failed to include on the contract the heading:  
12 “Note About Extra Work and Change Orders,” followed by the statement required by law.
- 13          x.       **Subdivision (e)(1)**: Respondent failed to include on the contract the heading  
14 “Commercial General Liability Insurance (CGL),” and the relevant and correct statements.
- 15          y.       **Subdivision (e)(2)**: Respondent failed to include on the contract the heading  
16 “Workers’ Compensation Insurance,” and the required relevant and correct statements.
- 17          z.       **Subdivision (e)(3)**: Respondent failed to include on the contract the notice that  
18 provides the buyer with information about the performance of extra or change-order work.
- 19          aa.       **Subdivision (e)(3)(A)**: Respondent failed to provide a statement that the buyer  
20 may not require a contractor to perform extra or change-order work without providing written  
21 authorization prior to the commencement of work covered by the new change order.
- 22          bb.       **Subdivision (e)(3)(B)**: Respondent failed to include on the contract the notice  
23 that provides the buyer with information regarding identification of the following in writing prior  
24 to commencement of work covered by the change order:
- 25                   (i) The scope of work encompassed by the order.  
26                   (ii) The amount to be added or subtracted from the contract.  
27                   (iii) The effect the order will make in the progress payments or the  
28 completion date.

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1 cc. **Subdivision (e)(3)(C)**: Respondent failed to include on the contract the notice  
2 that provides the buyer with information regarding failure to comply with the requirements of  
3 this paragraph does not preclude the recovery of compensation for work performed based upon  
4 legal or equitable remedies designed to prevent unjust enrichment.

5 dd. **Subdivision (e)(4)**: Respondent failed to include on the contract the heading:  
6 “Mechanics’ Lien Warning” and the language required by law.

7 ee. **Subdivision (e)(6)**: Respondent failed to provide the proper notices.

### 8 **FIFTH CAUSE FOR DISCIPLINE**

#### 9 **(Excessive Down Payment)**

10 32. Respondent is subject to disciplinary action pursuant to Code section 7159.5,  
11 subdivision (a), with respect to the GH Project:

12 a. **Subdivision (a)(1)**: On February 4, 2012, Respondent failed to include in  
13 writing the agreed contract amount in dollars and cents. Respondent failed to include in the  
14 contract the amount that included the entire cost of the contract.

15 b. **Subdivision (a)(5)**: As of March 20, 2013, Respondent had obtained a  
16 total of \$77,338.72 from the homeowner, an amount that exceeded the value of the work  
17 performed on the project by \$44,723.05.

### 18 **OTHER MATTERS**

19 33. Under Code sections 7097 and 7098, if Contractor’s License Number 964626  
20 issued to Juan Carlos Hernandez, sole owner of JH Construction, is suspended or revoked, the  
21 Registrar may suspend or revoke, without notice, any other license for which Juan Carlos  
22 Hernandez furnished the qualifying experience or appearance.

23 34. Under Code section 7121, if discipline is imposed on Contractor’s License  
24 Number 964626 issued to Juan Carlos Hernandez, sole owner of JH Construction, then Juan  
25 Carlos Hernandez shall be prohibited from serving as an officer, director, associate, partner,  
26 manager, member, or qualifying individual for any licensee during the time the discipline is  
27 imposed, if he had knowledge of or participated in the acts or omissions alleged above  
28 constituting grounds for discipline against him and any licensee which employs, elects or

1 associates Juan Carlos Hernandez in any capacity other than as nonsupervising bona fide  
2 employee shall be subject to disciplinary action.

3 35. Under Code section 7121.5, if discipline is imposed on Contractor's License  
4 Number 964626 issued to Juan Carlos Hernandez, sole owner of JH Construction, then Juan  
5 Carlos Hernandez shall be prohibited from serving as an officer, director, associate, partner, or  
6 qualifying individual for any licensee during the time the discipline is imposed, whether or not  
7 he had knowledge of or participated in the acts or omissions constituting grounds for discipline,  
8 and any licensee which employs, elects or associates Juan Carlos Hernandez shall be subject to  
9 disciplinary action.

#### 10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
12 alleged, and that following the hearing, the Registrar of Contractors issue a decision:

13 1. Revoking or suspending Contractor's License Number 964626 issued to Juan  
14 Carlos Hernandez, sole owner of JH Construction;

15 2. Prohibiting Juan Carlos Hernandez from serving as an officer, director, associate,  
16 partner, or qualifying individual of any licensee during the period that discipline is imposed on  
17 Contractor's License Number 964626 issued to Juan Carlos Hernandez, sole owner of JH  
18 Construction;

19 3. Revoking or suspending any other license for which Juan Carlos Hernandez is  
20 furnishing the qualifying experience or appearance;

21 4. Ordering restitution of all damages according to proof suffered by GH, as a  
22 condition of probation in the event probation is ordered;

23 5. Ordering restitution of all damages suffered by GH as a result of Juan Carlos  
24 Hernandez's conduct as a contractor, as a condition of restoration of Contractor's License  
25 Number 964626 issued to Juan Carlos Hernandez, sole owner of JH Construction;

26 6. Ordering Juan Carlos Hernandez, sole owner of JH Construction to pay the  
27 Registrar of Contractors her costs in the investigation and enforcement of the case according to  
28 proof at the hearing, pursuant to Business and Professions Code section 125.3;

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7. Ordering Juan Carlos Hernandez, sole owner of JH Construction to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each; and

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

DATED: April 23, 2015 for Heather Henderson

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

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**FILED**  
**APR 23 2015**  
**CSLB DSS**