

**BEFORE THE  
REGISTRAR OF CONTRACTORS  
CONTRACTORS STATE LICENSE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**SUNROOMS AMERICA INC**  
2179 Stone Avenue # 17  
San Jose, CA 95125  
**CONTANCE RUTH GABRIEL, RMO/CEO/PRES**

**Contractor's License No. 1009268, B**

And

**BAY AREA FUN SPACE DIRECT INC, dba  
SUNROOMS AMERICA DIRECT**  
2175 Stone Avenue, Suite #3  
San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL, RMO/CEO/PRES**

**Contractor's License No. 950078, B**

And

**GABRIEL CONSTRUCTION COMPANY**  
2179 Stone Avenue #17  
San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL, SOLE OWNER**

**Contractor's License No. 1004259, B,**

Respondent and Affiliated Parties.

CASE NO. N2017-304

ORDER TO ADOPT  
DEFAULT DECISION

[Gov. Code, § 11520]

The attached Default Decision is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

Contractor's License Number **1009268** issued to **SUNROOMS AMERICA INC** is revoked.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, title 16, Respondent **SUNROOMS AMERICA INC** Contractor's License No. **1009268**, shall not apply for reissuance or reinstatement of said license for one year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that Respondent shall pay restitution in the amount of \$59,825.00. This amount is to be paid prior to issuance of a new or reinstated license pursuant to Business and Professions Code section 7102.

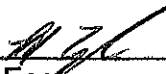
IT IS FURTHER ORDERED that unless **CONSTANCE RUTH GABRIEL** License Number **1009268** disassociates from License Number **950078**, on or before the effective date of this decision, the same penalties imposed upon License Number **1009268** shall be imposed upon License Number **950078**, pursuant to and in accordance with Sections 7097 and 7098 of the Contractors License Law.

IT IS FURTHER ORDERED that unless **CONSTANCE RUTH GABRIEL** License Number **1009268** disassociates from License Number **1004259**, on or before the effective date of this decision, the same penalties imposed upon License Number **1009268** shall be imposed upon License Number **1004259**, pursuant to and in accordance with Sections 7097 and 7098 of the Contractors License Law.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 16, 2018.

IT IS SO ORDERED April 16, 2018.

  
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David Fogt  
Registrar of Contractors

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**BEFORE THE  
REGISTRAR OF CONTRACTORS  
CONTRACTORS' STATE LICENSE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. N2017-304

**SUNROOMS AMERICA INC**  
2179 Stone Avenue # 17  
San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL,**  
**RMO/CEO/PRES**  
**Contractor's License No. 1009268, B**

**DEFAULT DECISION**

[Gov. Code, §11520]

And

**BAY AREA FUN SPACE DIRECT INC,**  
**dba SUNROOMS AMERICA DIRECT**  
2175 Stone Avenue, Suite #3  
San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL,**  
**RMO/CEO/PRES**  
**Contractor's License No. 950078, B**

And

1 **GABRIEL CONSTRUCTION COMPANY**

2 2179 Stone Avenue #17

3 San Jose, CA 95125

4 **CONSTANCE RUTH GABRIEL, SOLE**  
5 **OWNER**

6 **Contractor's License No. 1004259, B,**

7 Respondent and Affiliated  
8 Parties.

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10  
11 FINDINGS OF FACT

12 1. On or about February 2, 2018, Accusation No. N2017-304 was filed against  
13 Sunrooms America, Inc., Constance Ruth Gabriel, RMO/CEO/Pres (Respondent) before the  
14 Registrar of Contractors (Registrar) for the Contractors' State License Board (Board).  
15 (Accusation attached as Exhibit A.)

16 2. On or about November 30, 2015, the Registrar issued Contractor's License No.  
17 1009268, B to Respondent. The Contractor's License expired on November 30, 2017, and has not  
18 been renewed. This lapse in licensure, however, pursuant to Business and Professions Code  
19 section 7106.5 does not deprive the Board of its authority to institute or continue this disciplinary  
20 proceeding.

21 3. On or about February 2, 2018, Respondent was served by Certified and First Class  
22 Mail copies of the Accusation No. N2017-304, Statement to Respondent, Notice of Defense,  
23 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
24 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
25 Code section 136, is required to be reported and maintained with the Board. Respondent's  
26 address of record was and is:

27 2179 Stone Avenue # 17  
28 San Jose, CA 95125.

1 4. Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

4 5. Government Code section 11506(c) states, in pertinent part:

5 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
6 files a notice of defense . . . and the notice shall be deemed a specific denial of all  
7 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
8 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
9 discretion may nevertheless grant a hearing.

10 6. The Registrar takes official notice of the Board's records and the fact that Respondent  
11 failed to file a Notice of Defense within 15 days after service upon it of the Accusation, and  
12 therefore waived its right to a hearing on the merits of Accusation No. N2017-304.

13 7. California Government Code section 11520(a) states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense . . . or to appear at  
15 the hearing, the agency may take action based upon the respondent's express  
16 admissions or upon other evidence and affidavits may be used as evidence without  
17 any notice to respondent. . . .

18 8. Pursuant to its authority under Government Code section 11520, the Registrar finds  
19 Respondent is in default. The Registrar will take action without further hearing and, based on the  
20 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
21 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
22 therein on file at the Board's offices regarding the allegations contained in Accusation No.  
23 N2017-304, finds that the charges and allegations in Accusation No. N2017-304, are separately  
24 and severally, found to be true and correct by clear and convincing evidence.

25 9. The Registrar finds that the actual costs for investigation and prosecution are  
26 \$2,294.62 as of February 26, 2018.

27 10. The Registrar finds that the loss to B.Q. caused by the acts or omissions of  
28 Respondent is \$59,825.00.

#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent has subjected its Contractor's  
License No. 1009268, B to discipline.

- 1           2.    The agency has jurisdiction to adjudicate this case by default.
- 2           3.    The Registrar of Contractors is authorized to revoke Respondent's contractor's license
- 3 based upon the following violations alleged in the Accusation which are supported by the
- 4 evidence contained in the Default Decision Investigatory Evidence Packet in this case:
- 5           a.    Violation of Code section 7109(a), for the departure from trade standards on the B.Q.
- 6           project.
- 7           b.    Violation of Code section 7112, for failing to identify William Gabriel as
- 8           Respondent's president in the licensing application documents.
- 9           c.    Violation of Code section 7113, for failing to complete the B.Q. project for the
- 10           contract price.
- 11           d.    Violation of Code section 7116, for willfully receiving \$3,300.00 to remove the
- 12           existing concrete slab but did not perform that work on the B.Q. project.
- 13           e.    Violation of Code section 7125.4, for failing to obtain Workers' Compensation
- 14           Insurance for employees utilized on the B.Q. project.
- 15           f.    Violation of Code section 7154, for employing unregistered home improvement
- 16           salesperson William Gabriel on B.Q. project.
- 17           g.    Violation of Code section 7159.5(a)(5), for requesting and receiving an excessive
- 18           down payment on the B.Q. project.
- 19           h.    Violation of Code section 7161(b), for misrepresenting when the B.Q. project would
- 20           be substantially completed.
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4. Pursuant to Business and Professions Code section 7122.5, the performance by an individual, partnership, corporation, limited liability company, firm, or association of an act or omission constituting a cause for disciplinary action constitutes a cause for disciplinary action against a licensee who at the time that the act or omission occurred was the qualifying individual of that individual, partnership, corporation, limited liability company, firm, or association, whether or not he or she had knowledge of or participated in the prohibited act or omission. Therefore, pursuant to section 7122.5, Constance Ruth Gabriel, is subject to discipline regardless of whether or not she had knowledge of or participated in the act(s) or omissions(s) in Accusation No. N2017-304.

  
REGISTRAR OF CONTRACTORS  
CONTRACTORS' STATE LICENSE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

I2975779.DOC  
DOJ Matter ID:SF2017402626

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation



1 XAVIER BECERRA  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 MICHAEL B. FRANKLIN  
Deputy Attorney General  
4 State Bar No. 136524  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5622  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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

13 In the Matter of the Accusation Against:

Case No. N2017-304

14 **SUNROOMS AMERICA INC**  
2179 Stone Avenue # 17  
15 San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL, RMO/CEO/PRES**

**ACCUSATION**

16 **Contractor's License No. 1009268, B**

17 And

18 **BAY AREA FUN SPACE DIRECT INC, dba**  
**SUNROOMS AMERICA DIRECT**  
19 2175 Stone Avenue, Suite #3  
20 San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL, RMO/CEO/PRES**

21 **Contractor's License No. 950078, B**

22 And

24 **GABRIEL CONSTRUCTION COMPANY**  
2179 Stone Avenue #17  
25 San Jose, CA 95125  
**CONSTANCE RUTH GABRIEL, SOLE OWNER**

26 **Contractor's License No. 1004259, B,**

27 Respondent and Affiliated Parties.  
28

1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about November 30, 2015, the Registrar of Contractors issued Contractor's  
7 License Number 1009268, B to Sunrooms America, Inc., Constance Ruth Gabriel,  
8 RMO/CEO/Pres (Respondent). The Contractor's License expired on November 30, 2017, and has  
9 not been renewed.

10 3. On or about July 19, 2010, the Registrar of Contractors issued Contractor's License  
11 Number 950078, B to Bay Area Fun Space Direct, Inc, dba Sunrooms America Direct, Constance  
12 Ruth Gabriel, RMO/CEO/Pres (Affiliated Party #1). The Contractor's License expired on April  
13 30, 2015, and has not been renewed.

14 4. On or about June 5, 2015, the Registrar of Contractors issued Contractor's License  
15 Number 1004259, B to Gabriel Construction Company, Constance Ruth Gabriel, sole owner  
16 (Affiliated Party #2). The Contractor's License will expire on June 30, 2019, unless renewed.

17 **JURISDICTION**

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

22 **STATUTORY PROVISIONS**

23 6. Section 7090 of the Business and Professions Code ("Code") provides, in pertinent  
24 part, that the Registrar may suspend or revoke any license or registration if the licensee or  
25 registrant is guilty of or commits any one or more of the acts or omissions constituting cause for  
26 disciplinary action.

27 7. Section 7106.5 of the Code provides, in pertinent part, that the expiration,  
28 cancellation, forfeiture, or suspension of a license by operation of law or by order or decision of

1 the registrar, or a court of law, or the voluntary surrender of the license shall not deprive the  
2 registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding  
3 against the license, or to render a decision suspending or revoking the license.

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

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

12 10. Section 7109 of the Code states:

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

17 "(b) A willful departure from or disregard of plans or specifications in any material respect,  
18 which is prejudicial to another, without the consent of the owner or his or her duly authorized  
19 representative and without the consent of the person entitled to have the particular construction  
20 project or operation completed in accordance with such plans or specifications, constitutes a cause  
21 for disciplinary action."

22 11. Section 7112 of the Code states that "[o]mission or misrepresentation of a material  
23 fact by an applicant or a licensee in obtaining, or renewing a license, or in adding a classification  
24 to an existing license constitutes a cause for disciplinary action."

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

1           13. Section 7116 of the Code states that "[t]he doing of any wilful or fraudulent act by the  
2 licensee as a contractor in consequence of which another is substantially injured constitutes a  
3 cause for disciplinary action."

4           14. Section 7125.4 of the Code states:

5           “(a) The filing of the exemption certificate prescribed by this article that is false, or the  
6 employment of a person subject to coverage under the workers' compensation laws after the filing  
7 of an exemption certificate without first filing a Certificate of Workers' Compensation Insurance  
8 or Certification of Self-Insurance in accordance with the provisions of this article, or the  
9 employment of a person subject to coverage under the workers' compensation laws without  
10 maintaining coverage for that person, constitutes cause for disciplinary action.

11           “(b) Any qualifier for a license who, under Section 7068.1 is responsible for assuring that a  
12 licensee complies with the provisions of this chapter, is also guilty of a misdemeanor for  
13 committing or failing to prevent the commission of any of the acts that are cause for disciplinary  
14 action under this section”

15           15. Section 7154 of the Code states:

16           “(a) A home improvement contractor licensed under this chapter shall notify the registrar in  
17 writing, on a form prescribed by the registrar, about the employment of a registered home  
18 improvement salesperson, pursuant to the terms of this article. This notification requirement shall  
19 include, but not be limited to, the name and registration number of the home improvement  
20 salesperson who is employed by the contractor. The form shall be submitted prior to the home  
21 improvement salesperson beginning work for the contractor.

22           “(b) A home improvement contractor shall notify the registrar in writing, on a form  
23 prescribed by the registrar, when a registered home improvement salesperson ceases to be  
24 employed by the contractor. This notification requirement shall include, but not be limited to, the  
25 name and registration number of the home improvement salesperson who had been employed by  
26 the contractor. The form shall be submitted within 90 days after the home improvement  
27 salesperson ceases to be employed by the contractor.

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 19. Government Code section 11519(d), provides, in pertinent part, that the Registrar  
4 may require restitution of damages suffered as a condition of probation in the event probation is  
5 ordered.

### 6 B.O PROJECT

7 20. On or about August 21, 2016, Respondent, through unregistered salesperson  
8 William Gabriel, entered into a contract with B.Q. to construct a sunroom in the backyard of their  
9 home in San Jose, California (hereinafter "B.Q. project"). The contract amount was \$98,500.00.  
10 Respondent, through unregistered salesperson William Gabriel, asked for and received a payment  
11 of \$73,875.00, on August 21, 2016, telling B.Q. that the money would go towards their building  
12 materials. Respondent, through unregistered salesperson William Gabriel, promised B.Q. that the  
13 sunroom would be substantially completed by December 23, 2016.

14 21. Respondent began partial demolition of the existing concrete patio and removal of  
15 the existing sunroom and building eaves on or about September 23, 2016. After seven months of  
16 little progress, B.Q. learned that a building permit had not been pulled and thereafter fired  
17 Respondent on or about April 18, 2017, at a time when the sunroom had not been completed.  
18 B.Q. had paid Respondent \$3,300.00 to remove the existing concrete slab, however Respondent  
19 failed to remove the existing concrete slab.

20 22. B.Q. had to hire a correcting contractor to complete the sunroom in or about May  
21 2017. The correcting contractor obtained the required permits and obtained engineered drawings.  
22 None of Respondent's work on the B.Q. project was salvageable and it all had to be demolished.  
23 B.Q. had to pay an additional \$81,450.00 to complete the sunroom project.

### 24 FIRST CAUSE FOR DISCIPLINE

#### 25 (Departure From Accepted Trade Standards)

26 23. Respondent is subject to discipline pursuant to Code section 7109(a), in that on the  
27 B.Q. project, it willfully departed from accepted trade standards for good and workmanlike  
28 construction by failing to obtain required permits and inspections, and failing to have engineered

1 plans prepared. In addition, all of the work Respondent performed on the B.Q. project was not to  
2 trade standards and was not compliant with building codes and had to be demolished prior to  
3 completing the project.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Misrepresentation of a Material Fact on Application)**

6 24. Respondent is subject to discipline under Code section 7112, in that licensing  
7 application documents submitted by Respondent failed to accurately identify William Gabriel as  
8 Respondent's President.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Complete the Project for the Contract Price)**

11 25. Respondent's license is subject to discipline under Code section 7113, in that on  
12 the B.Q. project, Respondent failed in a material respect to complete the project for the contract  
13 price and the homeowner was required to spend a substantial sum in excess of the contract price  
14 to complete the project in accordance with the contract.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Intentional Conduct Causing Injury)**

17 26. Respondent is subject to discipline under Code section 7116, in that on the B.Q.  
18 project, Respondent received \$3,300.00 to remove the existing concrete slab but failed to remove  
19 the existing slab and instead poured new concrete over the existing slab.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Obtain Workers' Compensation Insurance)**

22 27. Respondent is subject to discipline under Code section 7125.4, in that on the B.Q.  
23 project, Respondent utilized employees to enter the contract and perform work on the project and  
24 failed to obtain Workers' Compensation Insurance for those employees.

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1           2.     Prohibiting Constance Ruth Gabriel from serving as an officer, director, associate,  
2 partner, or qualifying individual of any licensee during the period that discipline is imposed on  
3 license Number 1009268, B, issued to Respondent;

4           3.     Revoking or suspending any other license for which Constance Ruth Gabriel is  
5 furnishing the qualifying experience or appearance;

6           4.     Ordering restitution of all damages according to proof suffered by B.Q. as a condition  
7 of probation in the event probation is ordered;

8           5.     Ordering restitution of all damages suffered by B.Q. as a result of Respondent's  
9 conduct as a contractor, as a condition of restoration of license Number 1009268, B, issued to  
10 Respondent;


11          6.     Ordering Respondent to pay the Registrar of Contractors her costs in the investigation  
12 and enforcement of the case according to proof at the hearing, pursuant to Business and  
13 Professions Code section 125.3;

14          7.     Ordering Respondent to provide the Registrar with a listing of all contracting projects  
15 in progress and the anticipated completion date of each;

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

17  
18 DATED: 02/02/18

19                   **FILED**  
20                   FEB 02 2018  
21                   **CSLB DSS**

22                     
23                   WOOD ROBINSON  
24                   Enforcement Supervisor I  
25                   Contractors' State License Board  
26                   Department of Consumer Affairs  
27                   State of California  
28                   Complainant *WR*

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