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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**

13 In the Matter of the Accusation Against:

Case No. N-2013-157

14 **LEGG, INC.**  
15 **2551 2nd St.**  
16 **Livermore, CA 94550**  
17 **ROBERT PAUL LEGG, II, RMO**  
18 **LEONARD ANTHONY D'ORAZIO, Officer**  
19 **Contractor License No. 766727, A, B, C-28, C-33**

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

20 **ELLA**  
21 **1141 Catalina Drive, #123**  
22 **Livermore, CA 94550**  
23 **ROBERT PAUL LEGG, II, Sole Owner**  
24 **Contractor License No. 685925, A, B, C-28, C-33**

25 Respondents.

26 **LML ENTERPRISES INC.**  
27 **4361 Technology Drive, Suite D**  
28 **Livermore, CA 94551**  
29 **ROBERT PAUL LEGG, II, RMO**  
30 **SEAN CHRISTOPHER LYONS, Officer**  
31 **ROBERT BRANDON MERCADE, Officer**  
32 **Contractor License No. 958520, A, B, C-28, C-33**

Affiliated License.

Wood Robinson ("Complainant") alleges:

**PARTIES**

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

4       **Legg Inc.**

5       2.     On or about July 30, 1999, the Registrar of Contractors issued Contractor License  
6 Number 766727, classifications A (General Engineering Contractor), B (General Building  
7 Contractor) to Legg Inc. with Robert Paul Legg II ("Respondent") as the Responsible Managing  
8 Officer. On or about March 6, 2003, the Board issued classification C-28 (Lock and Security  
9 Equipment Contractor) to Respondent. On or about August 11, 2005, Leonard Anthony  
10 D'Orazio became an Officer. On or about February 25, 2011, the Board issued classification  
11 C-33 (Painting and Decorating Contractor) to Respondent. The license is suspended and will  
12 expire on July 31, 2015, unless renewed.

13       **Ella**

14       3.     On or about March 24, 1994, the Registrar of Contractors issued Contractor License  
15 Number 685925, classifications A (General Engineering Contractor), B (General Building  
16 Contractor), and C-33 (Painting and Decorating Contractor) with Robert Paul Legg II as the sole  
17 owner of Ella. On or about March 31, 2004, the license expired. On or about  
18 September 28, 2012, the license was reissued, reinstated, and the Board issued classification C-28  
19 (Lock and Security Equipment). The license is suspended and will expire on  
20 September 30, 2014, unless renewed.

21       **L M L Enterprises Inc.**

22       4.     On or about March 8, 2011, the Registrar of Contractors issued Contractor License  
23 Number 958520, classifications A (General Engineering Contractor), B (General Building  
24 Contractor), and C-33 (Painting and Decorating Contractor) to L M L Enterprises Inc. with  
25 Robert Paul Legg II as the Responsible Managing Officer, and Sean Christopher Lyons and  
26 Robert Brandon Mercade as Officers. On or about March 23, 2011, the Board issued  
27 classification C-28 (Lock and Security Equipment Contractor). On or about February 24, 2013,  
28 the license was suspended pursuant to Business and Professions Code ("Code") section 7125.2

(workers' compensation). On or about April 16, 2013, the license was suspended pursuant to Code of Civil Procedure section 996.340 (contractor's bond). The license will expire on March 31, 2015, unless renewed.

### **JURISDICTION**

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

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

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

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

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

7. Code section 7096 states:

For the purposes of this chapter, the term "licensee" shall include an individual, copartnership, corporation, joint venture, or any combination or organization licensed under this chapter, and shall also include any named responsible managing officer or member of the personnel of such licensee whose appearance has qualified the licensee 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] in the name of the licensee or for which the licensee furnished qualifying experience and appearance under the provisions of Section 7068, may be suspended by the registrar without further notice.

9. Code section 7098 states:

Notwithstanding the provisions of Sections 7121 and 7122, when any license has been revoked under the provisions of this chapter [the Contractors' State License Law], any additional license issued under this chapter in the name 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.

10. Code section 7106.5 states:

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

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

12. 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.

13. Code section 7122.5 states:

The performance by any individual, partnership, corporation, firm, or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who at the time such act or omission occurred was the responsible managing employee, qualifying partner, responsible managing officer, or qualifying member of such individual, partnership, corporation, firm, or association, whether or not he had knowledge of or participated in the prohibited act or omission.

### **STATUTORY PROVISIONS**

14. Code section 7108.5 states:

(a) This section applies to all private works of improvement and to all public works of improvement, except where Section 10262 of the Public Contract Code applies.

(b) Except as provided in subdivision (c), a prime contractor or subcontractor shall pay to any subcontractor, not later than 10 days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. A prime contractor or subcontractor that fails to comply with this subdivision shall be subject to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made as required under this subdivision.

(c) If there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.

1 (d) A violation of this section shall constitute a cause for disciplinary action.

2 (e) In any action for the collection of funds wrongfully withheld, the  
3 prevailing party shall be entitled to his or her attorney's fees and costs.

4 (f) The sanctions authorized under this section shall be separate from, and in  
5 addition to, all other remedies, either civil, administrative, or criminal.

6 15. Code section 7110 states:

7 Willful or deliberate disregard and violation of the building laws of the  
8 state, or of any political subdivision thereof, or of Section 8550 or 8556 of this code,  
9 or of Sections 1689.5 to 1689.15, inclusive, of the Civil Code, or of the safety laws or  
10 labor laws or compensation insurance laws or Unemployment Insurance Code of the  
11 state, or of the Subletting and Subcontracting Fair Practices Act (Chapter 4  
12 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract  
13 Code), or violation by any licensee of any provision of the Health and Safety Code or  
14 Water Code, relating to the digging, boring, or drilling of water wells, or Article 2  
15 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the  
16 Government Code, constitutes a cause for disciplinary action.

17 16. Public Contract Code section 4107 states, in pertinent part:

18 A prime contractor whose bid is accepted may not:

19 (a) Substitute a person as subcontractor in place of the subcontractor  
20 listed in the original bid, except that the awarding authority, or its duly authorized  
21 officer, may, except as otherwise provided in Section 4107.5, consent to the  
22 substitution of another person as a subcontractor.

23 (b) Permit a subcontract to be voluntarily assigned or transferred or allow  
24 it to be performed by anyone other than the original subcontractor listed in the  
25 original bid, without the consent of the awarding authority, or its duly authorized  
26 officer.

27 17. Public Contract Code section 4111 states:

28 Violation of this chapter by a licensee under Chapter 9 (commencing with  
Section 7000) of Division 3 of the Business and Professions Code constitutes grounds  
for disciplinary action by the Contractors State License Board, in addition to the  
penalties prescribed in Section 4110.

### 23 COST RECOVERY/RESTITUTION

24 18. Code section 125.3 provides, in pertinent part, that the Registrar may request the  
25 administrative law judge to direct a licensee found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.

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

4                                   **BACKGROUND INFORMATION**

5           20. Between June 15, 2012, and October 30, 2012, Respondent contracted with the  
6 Department of Transportation ("Caltrans") to perform the following projects:

7                           **I-80/I-680 (SOLANO COUNTY) PROJECT (TRAFFIC CONTROL)**

8           21. On or about June 15, 2012, Respondent entered into a subcontract with Farwest  
9 Safety, Inc. to provide traffic control at various locations in Solano County on a Public Works  
10 project. The total cost of Farwest Safety, Inc.'s services were \$151,250 ("I-80/I-680 project").  
11 Work began on or about June 25, 2012, and was last performed on November 21, 2012.  
12 Respondent paid Farwest Safety, Inc. \$71,407.50.

13                           **FIRST CAUSE FOR DISCIPLINE**

14                                   **(Failure to Pay Subcontractor)**

15           22. Respondent is subject to discipline under Code section 7108.5, in that after  
16 receiving sufficient funds on the I-80/I-680 project, it failed to pay subcontractor Farwest Safety,  
17 Inc. \$78,262.50 (\$79,842.50 with interest) within ten (10) days after it received those funds from  
18 Caltrans on or by November 5, 2012. Caltrans paid Respondent \$51,477.50 on October 3, 2012,  
19 and \$26,785 on November 5, 2012, funds that were allocated for Farwest Safety, Inc. services.

20                           **I-80 (PLACER/NEVADA COUNTY) PROJECT**

21           23. On or about June 21, 2012, Respondent entered into a subcontract with Pacific  
22 Coast Markings to provide highway striping services on a Public Works project on I-80 in Placer  
23 and Nevada Counties. The total amount of Pacific Coast Markings' contract was \$144,013.95  
24 ("I-80 project"). Pacific Coast Markings completed 65% of the contracted work but had to stop  
25 due to the seasonal weather conditions worsening. Respondent was billed 65% of the contracted  
26 amount, \$93,365.47, for the work completed, but Respondent has not paid any monies to Pacific  
27 Coast Markings. On or about December 18, 2012, Pacific Coast Markings filed a Stop Payment  
28



1 Notice with Caltrans for monies owed to them. Work began on or about August 13, 2012, and  
2 was last performed on November 20, 2012.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Pay Subcontractor)**

5 24. Respondent is subject to discipline under Code section 7108.5, in that after  
6 receiving sufficient funds on the I-80 project, it failed to pay subcontractor Pacific Coast  
7 Markings \$93,365.47 within ten (10) days after it received payment of \$1,124,605.12 from  
8 Caltrans on or before February 20, 2013.

9 **RTE. 223 PROJECT**

10 25. On or about October 15, 2012, Respondent entered into a verbal subcontract with  
11 California Parking & Highway to provide shoulder work that included grading, grinding spread,  
12 compacting, and patching with AC striping on Route 223. The total cost of California Parking &  
13 Highway's services were \$82,176 ("RTE. 223 project"). Work began on or about  
14 October 15, 2012, and was last performed on or about November 9, 2012. Respondent paid  
15 California Parking & Highway \$12,000. California Parking & Highway filed a Stop Payment  
16 Notice with Caltrans for the money owed to them by Respondent.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Pay Subcontractor)**

19 26. Respondent is subject to discipline under Code section 7108.5, in that after  
20 receiving sufficient funds on the RTE. 223 project, it failed to pay subcontractor California  
21 Parking & Highway \$70,176 within ten (10) days after it received payment of \$593,165.87 from  
22 Caltrans.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Violation of the Subletting and Subcontractor Fair Practices Act)**

25 27. Respondent is subject to discipline under Code section 7110, in that on or about  
26 October 15, 2012, it willfully or deliberately disregarded and violated the Subletting and  
27 Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of  
28

1 Division 2 of the Public Contract Code), by failing to list California Parking & Highway as a  
2 subcontractor on their original bid for the project, in violation of Public Contract Code 4107(b).

3 **I-80/I-680 (SOLANO COUNTY) PROJECT (HIGHWAY STRIPING)**

4 28. On or about October 30, 2012, Respondent entered into a verbal subcontract with  
5 Pacific Coast Markings to provide highway striping materials and services on Route I-80 and  
6 I-680 in Solano County. The total cost of Pacific Coast Markings' services were \$24,700.04  
7 ("I-80/I-680 project"). Respondent has not paid Pacific Coast Markings any monies. Work  
8 began on or about October 30, 2012, and was last performed on November 13, 2012.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Pay Subcontractor)**

11 29. Respondent is subject to discipline under Code section 7108.5, in that after  
12 receiving sufficient funds on the I-80/I-680 project, it failed to pay subcontractor Pacific Coast  
13 Markings within ten (10) days after it received payment of \$901,229.69 from Caltrans on or  
14 before April 12, 2013.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Violation of the Subletting and Subcontractor Fair Practices Act)**

17 30. Respondent is subject to discipline under Code section 7110, in that on or about  
18 October 30, 2012, on the I-80/I-680 project, it willfully or deliberately disregarded and violated  
19 the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100)  
20 of Part 1 of Division 2 of the Public Contract Code), by failing to receive consent from Caltrans  
21 to the substitution of Pacific Coast Markings to perform the striping services, in that Chrisp  
22 Company was listed on the original bid to provide the striping services, in violation of Public  
23 Contract Code 4107(a).

24 **OTHER MATTERS**

25 31. Pursuant to Code sections 7097 and 7098, if Contractor's License  
26 Number 766727, issued to Legg Inc., is suspended or revoked, then the Registrar may suspend or  
27 revoke, without notice, any other license issued in the name of Robert Paul Legg II, or for which  
28 he furnished the qualifying experience and appearance.



32. Pursuant to Code section 7121.5, if discipline is imposed on Contractor's License Number 766727, issued to Legg Inc., then Robert Paul Legg II shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the time the discipline is imposed, whether or not they had knowledge or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects, or associates him shall be subject to disciplinary action.

33. Pursuant to Code section 7122.5, the causes for discipline established as to Legg Inc., likewise constitutes cause for discipline against individual license number 685925, issued to Robert Paul Legg II, doing business as Ella, regardless of whether he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Legg Inc.

## PRAYER

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

1. Revoking or suspending Contractor's License Number 766727, issued to Legg  
Inc.;

2. Revoking or suspending Contractor's License Number 685925, issued to Robert Paul Legg II, doing business as Ella;

3. Prohibiting Robert Paul Legg II from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on Contractor's License Number 766727, issued to Legg Inc.;

4. Revoking or suspending any other license for which Robert Paul Legg II furnished the qualifying experience or appearance;

5. Ordering restitution of all damages according to proof suffered by Farwest Safety, Inc., Pacific Coast Markings, and California Parking & Highway, as a condition of probation in the event probation is ordered;

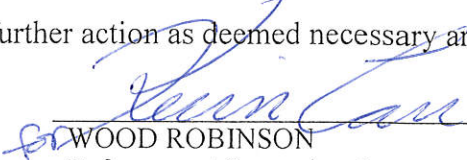
6. Ordering restitution of all damages suffered by Farwest Safety, Inc., Pacific Coast Markings, and California Parking & Highway as a result of Legg Inc.'s conduct as a contractor, and as a condition of restoration of Contractor's License Number 766727, issued to Legg Inc.;

1           7.       Ordering Legg Inc. to pay the Registrar of Contractors his costs in the  
2 investigation and enforcement of the case according to proof at the hearing, pursuant to Business  
3 and Professions section 125.3;

4           8.       Ordering Legg Inc. to provide the Registrar with a listing of all contracting  
5 projects in progress and the anticipated completion date of each; and,

6           9.       Taking such other and further action as deemed necessary and proper.

7 DATED: 5/28/14

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

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**FILED**  
**MAY 28 2014**  
**CSLB DSS**