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7

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

11 In the Matter of the Accusation Against:

Case No. N2015-277

12 **NOVEL REMODELING, INC.,**
263 W. Olive Ave., #122
Burbank, CA 91502
13 **DAVID PARTIEL, RMO/CEO/PRES**

A C C U S A T I O N

14 Contractor's License No. 908461,

15 Respondent.

16 **INNER CITY SKYLINE INC,**
419 Main St., #36
Huntington Beach, CA 92648
18 **DAVID PARTIEL, RMO**

19 Contractor's License No. 567188,

20 **and**

21 **D P EXCLUSIVE DESIGN INC,**
1800 Wilcox Avenue
Los Angeles, CA 90028
23 **DAVID PARTIEL, RMO/CEO/PRES**

24 Contractor's License No. 895632

25 Affiliated Parties.

26 Complainant alleges:
27
28

1 **PARTIES**

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

5 **License Histories**

6 Novel Remodeling Inc

7 2. On or about December 26, 2007, the Registrar of Contractors (Registrar) issued
8 Contractor's License No. 908461 to Novel Remodeling Inc, David Partiel, RMO/CEO/PRES
9 (Respondent). The Contractor's License was in full force and effect at all times relevant to the
10 charges brought herein and will expire on December 31, 2017, unless renewed.

11 Inner City Skyline Inc

12 3. On or about May 5, 1989, the Registrar issued Contractor's License No. 567188 to
13 Inner City Skyline Inc, David Partiel, RMO (Affiliated Party). The Contractor's License was in full
14 force and effect at all times relevant to the charges brought herein and will expire on May 31,
15 2018, unless renewed.

16 D P Exclusive Design Inc.

17 4. On or about May 1, 2007, the Registrar issued Contractor's License No. 895632 to
18 D P Exclusive Design Inc, David Partiel, RMO/CEO/PRES (Affiliated Party). The Contractor's
19 License was cancelled on April 27, 2016, and not able to contract.

20 **JURISDICTION**

21 5. This Accusation is brought before the Registrar for the Board, under the authority of
22 the following laws. All section references are to the Business and Professions Code unless
23 otherwise indicated.

24 6. Section 118, subdivision (b), provides that the expiration of a license shall not deprive
25 the Registrar of jurisdiction to proceed with a disciplinary action during the period within which
26 the license may be renewed, restored, reissued or reinstated. Under section 7076.1, the Registrar
27 may reinstate a cancelled license if the licensee pays all of the fees and meets all of the
28 qualifications and requirements for obtaining an original license.

1 7. Section 7076.5 provides that the inactive status of a license shall not bar any
2 disciplinary action for violating provisions of the Contractors' State License Law (Bus. & Prof.
3 Code, ' 7000, et seq.).

4 8. Section 7090 provides that the Registrar may suspend or revoke any license or
5 registration if the licensee or registrant is guilty of or commits any one or more of the acts or
6 omissions constituting cause for disciplinary action.

7 9. Section 7095 states that the Registrar in making his order may:

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

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

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

16 10. Sections 7097 and 7098 provide that when any license has been suspended or revoked
17 following a hearing, the Registrar may suspend or revoke any additional license issued in the name
18 of the licensee or for which the licensee furnished qualifying experience and appearance under the
19 provisions of 7068, without further notice.

20 11. Section 7106.5 provides that the expiration, cancellation, forfeiture, or suspension of
21 a license by operation of law or by order or decision of the registrar, or a court of law, or the
22 voluntary surrender of the license shall not deprive the registrar of jurisdiction to proceed with any
23 investigation of or action or disciplinary proceeding against the license, or to render a decision
24 suspending or revoking the license.

25 12. Section 7121 states:

26 "A person who has been denied a license for a reason other than failure to document
27 sufficient satisfactory experience for a supplemental classification for an existing license, or who
28 has had his or her license revoked, or whose license is under suspension, or who has failed to

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

13 13. Section 7121.5 states:

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

20 14. Section 7122 states:

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

27 15. Section 7122.5 states:

28 "The performance by an individual, partnership, corporation, limited liability company, firm,

1 or association of an act or omission constituting a cause for disciplinary action, likewise constitutes
2 a cause for disciplinary action against a licensee who at the time that the act or omission occurred
3 was the qualifying individual of that individual, partnership, corporation, limited liability company,
4 firm, or association, whether or not he or she had knowledge of or participated in the prohibited
5 act or omission."

6 16. Section 7141 states:

7 "(a) Except as otherwise provided in this chapter, a license that has expired may be
8 renewed at any time within five years after its expiration by filing an application for renewal on a
9 form prescribed by the registrar and payment of the appropriate renewal fee. Renewal under this
10 section shall be effective on the date an acceptable renewal application is filed with the board. The
11 licensee shall be considered unlicensed and there will be a break in the licensing time between the
12 expiration date and the date the renewal becomes effective. Except as provided in subdivision (b),
13 if the license is renewed after the expiration date, the licensee shall also pay the delinquency fee
14 prescribed by this chapter.

15

16 "(d) If a license is not renewed within five years, the licensee shall make an application for a
17 license pursuant to Section 7066."

18 **STATUTORY PROVISIONS**

19 17. Section 7107 states that "[a]bandonment without legal excuse of any construction
20 project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause
21 for disciplinary action."

22 18. Section 7109 states:

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

27 "(b) A willful departure from or disregard of plans or specifications in any material respect,
28 which is prejudicial to another, without the consent of the owner or his or her duly authorized

1 representative and without the consent of the person entitled to have the particular construction
2 project or operation completed in accordance with such plans or specifications, constitutes a cause
3 for disciplinary action."

4 19. Section 7110 states:

5 "Willful or deliberate disregard and violation of the building laws of the state, or of any
6 political subdivision thereof, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to
7 1689.8, inclusive, or Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety
8 laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state,
9 or violation by any licensee of any provision of the Health and Safety Code or Water Code,
10 relating to the digging, boring, or drilling of water wells, or Article 2 (commencing with Section
11 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, constitutes a cause for
12 disciplinary action."

13 20. Section 7113 states that "[f]ailure in a material respect on the part of a licensee to
14 complete any construction project or operation for the price stated in the contract for such
15 construction project or operation or in any modification of such contract constitutes a cause for
16 disciplinary action."

17 21. Section 7154 states:

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

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

1 salesperson ceases to be employed by the contractor.

2 “(c) A home improvement contractor who employs a registered home improvement
3 salesperson to sell home improvement contracts, but who fails to report to the registrar pursuant
4 to subdivision (a) or (b), is subject to disciplinary action by the registrar.

5 “(d) A home improvement contractor who employs a person to sell home improvement
6 contracts while that person is not registered by the registrar as a home improvement salesperson as
7 provided in this article, is subject to disciplinary action by the registrar.”

8 **COST RECOVERY / RESTITUTION**

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

12 23. Government Code section 11519, subdivision (d), provides that the Registrar may
13 require restitution of damages suffered as a condition of probation in the event probation is
14 ordered.

15 **KEITH DRIVE PROJECT**

16 24. On or about April 30, 2014, Respondent, through its unregistered home improvement
17 salesperson B.H., entered into a contract with homeowner R.K. to install a vinyl fence at her
18 residence located on Keith Drive in Whittier, California for \$19,892.00. The homeowner was
19 informed that no permit was required to install the fence. On or about May 19, 2014, Respondent
20 entered into a second contract with homeowner R.K. to repair a stucco wall for \$5,535.00. On or
21 about September 4, 2014, Respondent entered into a third contract with homeowner R.K. to
22 install earthquake retrofitting for \$15,720.00. The three contracts Respondent entered into with
23 homeowner R.K. at her residence totaled \$41,147.00 (Keith Drive Project). Work began on the
24 project on or about May 12, 2014, and ended on or about October 7, 2014. Respondent was paid
25 \$39,192.00 on the project. An industry expert inspected the project and found the costs to correct
26 and complete Respondent work is approximately \$60,875.70.

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28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Abandonment)**

3 25. Respondent is subject to disciplinary action under section 7107, in that on the Keith
4 Drive Project, Respondent abandoned the project without legal excuse, failing to complete the
5 project, as follows:

- 6 a. Respondent failed to install retrofit anchors within the raised foundation system.
7 b. Respondent failed to properly install retrofit anchors with tight bolts.
8 c. Respondent failed to repair all fractures [cracks] in the concrete foundation stem wall.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Departures From Accepted Trade Standards)**

11 26. Respondent is subject to disciplinary action under section 7109, subdivision (a), in that
12 on the Keith Drive Project, Respondent willfully departed in a material respect from accepted trade
13 standards for good and workmanlike construction, as follows:

14 Vinyl Fence

- 15 a. Respondent failed to install the vinyl fence with approvals from the city of Whittier
16 Building and Safety.
17 b. Respondent failed to install or use specific hardware pursuant to manufacturer
18 installation procedures when installing the vinyl fence vertical support posts and / or the horizontal
19 rails so as to make the components be sure tight fits, without using incompatible, off color or non-
20 adhering caulking to fill in gaps.
21 c. Respondent failed to install the fence to allow for drainage at the base with a 3" space
22 to allow for natural water drainage.
23 d. Respondent failed to install the fence not to be higher than 36" in both front and side
24 yards and to include open slats.
25 e. Respondent failed to securely install the side yard vinyl fence on top of the masonry
26 wall to not be loose.

27 Earthquake Retrofitting

- 28 f. Respondent failed to provide correct details of the raised foundation system, true and

1 accurate as built conditions of the property, when obtaining the retro fit permit pursuant to the
2 Earthquake Hazard Reduction retrofit system utilizing the LADBS plan No. 1, and instead
3 presented a vague drawing, foundation outline.

4 g. Respondent failed to verify all previously installed retrofit anchor attachments, bolts,
5 that were loose and tighten as necessary.

6 h. Respondent failed to repair / replace all fractured, cracked, concrete stem wall footings
7 in the concrete foundation stem walls per the approved plans, Earthquake Hazard Reduction
8 retrofit plan LADS plan No. 1.

9 i. Respondent failed to choose and install correct retrofit anchors from the Earthquake
10 Hazard Reduction retrofit plan LADBS plan No. 1.

11 j. Respondent failed to install all missing retrofit anchors within the raised foundation
12 system per the plan.

13 Masonry Wall - Driveway

14 k. Respondent failed to properly reinforce the masonry wall prior to stucco application so
15 as to not have a fracture, crack, reappear at the driveway.

16 l. Respondent failed to properly repair a cracked area of the driveway so as to have the
17 fracture, crack, reappear.

18 Masonry Wall – Side Yard

19 m. Respondent failed to utilize masonry wall construction assembly materials at the side
20 yard and instead installed a wood framing metal strap.

21 n. Respondent failed to conform to building code fence height when it installed the vinyl
22 fence on top of the side yard masonry wall to be over height.

23 o. Respondent failed to install secure wall caps on the masonry wall at the side yard
24 where the vinyl fence support posts were attached.

25 p. Respondent failed to properly repair the masonry wall at the side yard.

26 **THIRD CAUSE FOR DISCIPLINE**

27 **(Departure From Plans or Specifications)**

28 27. Respondent is subject to disciplinary action under section 7109, subdivision (b), in that

1 on the Keith Drive Project, Respondent willfully disregarded the project plans and specifications in
2 a material respect, as follows:

3 a. Respondent failed to install retrofit anchors in accordance with the layout in the
4 Earthquake Hazard Reduction retrofit plan LADBS plan No. 1 provided by the contractor and
5 approved by the city building and permit department.

6 b. Respondent failed to repair all concrete foundation stem wall fractures, cracks, in
7 accordance with the approved plans, Earthquake Hazard Reduction retrofit plan LADBS plan
8 No. 1.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Building Law Violation - No Building Permit)**

11 28. Respondent is subject to disciplinary action under section 7110, in that on the Keith
12 Drive Project, Respondent willfully or deliberately disregarded and violated building codes when it
13 failed to obtain required permit approvals prior to commencement of work.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Complete Project for Contract Price Stated)**

16 29. Respondent is subject to disciplinary action under section 7113, in that on the Keith
17 Drive Project, Respondent failed to complete the project for the contract price, and the
18 homeowner is required to spend substantial amounts in excess of the contract price to complete
19 the project in accordance with the contract.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Employment of Unregistered Home Improvement Salesperson)**

22 30. Respondent is subject to disciplinary action under section 7154, in that on the Keith
23 Drive Project, Respondent employed B.H. to sell a home improvement contract when B.H. was
24 not registered with the Board as a home improvement salesperson.

25 **DISCIPLINE CONSIDERATIONS**

26 31. To determine the degree of discipline, Complainant alleges that:

27 **Respondent's Prior Discipline**

28 a. On or about June 10, 2015, the Board issued Respondent administrative citation No. 2

1 2014 3141 with a modified penalty/fine of \$850.00. The modified citation alleged violations of
2 sections 7110 [violated building law – no permit], 7154 [employed non-registered salesperson] and
3 7159 [no monetary amount noted for work performed]. That Citation is now final and is
4 incorporated by reference as if fully set forth.

5 b. On or about June 24, 2015, the Board issued Respondent administrative citation
6 No. 2 2014 3142 with a modified penalty/fine of \$1,000.00. The modified citation alleged
7 violations of sections 7109(a) [departure from accepted trade standards], 7154 [employed non-
8 registered salesperson], and 7159.5 [excessive payments]. That Citation is now final and is
9 incorporated by reference as if fully set forth.

10 c. On or about November 6, 2015, the Board issued Respondent administrative citation
11 No. 2 2015 1786 with a modified penalty/fine of \$1,000.00. The modified citation alleged
12 violations of sections 7110 [violated building law – no permit], 7154 [employed non-registered
13 salesperson], and 7109(a) [departure from accepted trade standards]. That Citation is now final
14 and is incorporated by reference as if fully set forth.

15 Respondent's RMO, David Partiel's Cancelled License Prior Discipline

16 a. On or about March 25, 2010, the Board issued Affiliated Party D P Exclusive Design
17 Inc, David Partiel, RMO/CEO/PRES, administrative citation No. 2 2009-1961 with a penalty/fine
18 of \$3,250.00. The citation alleged violations of sections 7108 [diversion of project funds],
19 7109(a) [departures from accepted trade standards], 7109(b) [departure from
20 plans/specifications], 7159.5 [excessive payments], 7161(b) [substantial misrepresentation in
21 procurement of contract], and 7159 [home improvement contract form drafting violations]. That
22 Citation is now final and is incorporated by reference as if fully set forth.

23 b. On or about November 8, 2011, the Board issued Affiliated Party D P Exclusive
24 Design Inc, David Partiel, RMO/CEO/PRES, administrative citation No. 2 2011-1544 with a
25 modified penalty/fine of \$2,500.00. The modified citation alleged violations of sections 7107
26 [abandonment], 7109(a) [departures from accepted trade standards], 7117.6 [contracted outside
27 scope of license], 7154 [employed non-registered salesperson], 7159.5 [excessive payments], and
28 7161(b) [substantial misrepresentation in procurement of contract]. That Citation is now final

1 and is incorporated by reference as if fully set forth.

2 c. On or about March 15, 2012, the Board issued Affiliated Party D P Exclusive Design
3 Inc, David Partiel, RMO/CEO/PRES, administrative citation No. 2 2011 2074 with a modified
4 penalty/fine of \$400.00. The modified citation alleged a violation of section 7113 [failure to
5 complete for contract price], and violation of 7109(a) was withdrawn. That Citation is now final
6 and is incorporated by reference as if fully set forth.

7 **OTHER MATTERS**

8 32. Pursuant to sections 7097 and 7098, if license No. 908461 issued to Respondent is
9 suspended or revoked, the Registrar may suspend or revoke, without notice, any other license
10 issued in the name of David Partiel or for which David Partiel furnished the qualifying experience
11 and appearance.

12 33. Pursuant to sections 7121, 7121.5, 7122 and / or 7122.5, if discipline is imposed on
13 license No. 908461 issued to Respondent, David Partiel shall be prohibited from serving as an
14 officer, director, associate, partner, manager, or qualifying individual, or member of the personnel
15 of record of any licensee during the time the discipline is imposed, and any licensee which employs,
16 elects, or associates David Partiel shall be subject to disciplinary action.

17 **PRAYER**

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

20 As to Novel Remodeling Inc

21 1. Revoking or suspending Contractor's License No. 908461 issued to Novel Remodeling
22 Inc, David Partiel, RMO/CEO/PRES;

23 2. Prohibiting David Partiel from serving as an officer, director, associate, partner, or
24 qualifying individual of any licensee during the period that discipline is imposed on license No.
25 908461, issued to Novel Remodeling Inc, David Partiel, RMO/CEO/PRES;

26 3. Revoking or suspending any other license for which David Partiel is furnishing the
27 qualifying experience or appearance;

28 4. Ordering restitution of all damages according to proof suffered by homeowner R.K.,

1 as a condition of probation in the event probation is ordered;

2 5. Ordering restitution of all damages suffered by homeowner R.K. as a result of David
3 Partiel's conduct as a contractor, as a condition of restoration of license No. 908461, issued to
4 Novel Remodeling Inc, David Partiel, RMO/CEO/PRES;

5 6. Ordering Novel Remodeling Inc, David Partiel, RMO/CEO/PRES to pay the Registrar
6 her costs in the investigation and enforcement of the case according to proof at the hearing,
7 pursuant to section 125.3;

8 7. Ordering Novel Remodeling Inc, David Partiel, RMO/CEO/PRES to provide the
9 Registrar with a listing of all contracting projects in progress and the anticipated completion date
10 of each;

11 As to Inner City Skyline Inc

12 8. Revoking or suspending Contractor's License No. 567188 issued to Inner City Skyline
13 Inc, David Partiel, RMO;

14 9. Prohibiting David Partiel from serving as an officer, director, associate, partner, or
15 qualifying individual of any licensee during the period that discipline is imposed on license No.
16 567188, issued to Inner City Skyline Inc, David Partiel, RMO;

17 10. Revoking or suspending any other license for which David Partiel is furnishing the
18 qualifying experience or appearance;

19 11. Ordering Inner City Skyline Inc, David Partiel, RMO to provide the Registrar with a
20 listing of all contracting projects in progress and the anticipated completion date of each; and

21 As to D P Exclusive Design Inc

22 12. Revoking or suspending Contractor's License No. 895632 issued to D P Exclusive
23 Design Inc, David Partiel, RMO/CEO/PRES;

24 13. Prohibiting David Partiel from serving as an officer, director, associate, partner, or
25 qualifying individual of any licensee during the period that discipline is imposed on license
26 No. 895632, issued to D P Exclusive Design Inc, David Partiel, RMO/CEO/PRES;

27 14. Revoking or suspending any other license for which David Partiel is furnishing the
28 qualifying experience or appearance;

1 15. Ordering D P Exclusive Design Inc, David Partiel, RMO/CEO/PRES to provide the
2 Registrar with a listing of all contracting projects in progress and the anticipated completion date
3 of each; and,

4 As to All

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

7
8 DATED: _____

12/23/16



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

9 **FILED**
10 DEC 23 2016
11 **CSLB DSS**

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