XAVIER BECERRA
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General
MARC D. GREENBAUM
Supervising Deputy Attorney General
State Bar No. 138213
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2542
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against: **PREFERRED HOME BUILDERS, INC.,** 6271 Variel Avenue, #C Woodland Hills, CA 91367 Tamir Pinhas, RMO/CEO/PRES **Contractor's License No. 773147** Respondent.	Case No. N2016-175 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

License History

Preferred Home Builders, Inc.

2. On or about January 3, 2000, the Registrar of Contractors ("Registrar") issued Contractor's License Number 773147 to Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES ("Respondent"). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Registrar of the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

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

5. Section 7076.5 of the Code provides 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.).

6. Section 7090 of the Code provides 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.

7. Section 7095 of the Code provides 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.

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

9. Section 7106.5 of the Code provides that 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 the license 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.

10. Section 7121 of the Code states:

> A person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a partner, officer, director, manager, or associate of any partnership, corporation, limited liability company, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a partner, officer, director, manager, 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, manager, qualifying individual, or member of the personnel of record 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.

11. Section 7121.5 of the Code states:

> A 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, manager, 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 that person by a licensee shall constitute grounds for disciplinary action.

12. Section 7122 of the Code 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.

13. Section 7122.5 of the Code 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 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.

14. Section 7141 of the Code states:

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

(b) An incomplete renewal application that had originally been submitted on or before the license expiration date shall be returned to the licensee by the registrar with an explanation of the reasons for its rejection. If a corrected and acceptable renewal application is not returned within 30 days after the license expiration date, the delinquency fee shall apply. The 30 day grace period shall apply only to the delinquency fee. The license shall reflect an expired status for any period between the expiration date and the date of submission of a correct and acceptable renewal application.

(c) If so renewed, the license shall continue in effect through the date provided in Section 7140 that next occurs after the effective date of the renewal, when it shallexpire if it is not again renewed.

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

STATUTORY PROVISIONS

15. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

16. Section 7027.4, of the Code states:

(a) It is a cause for discipline for any contractor to advertise that he or she is "insured" or has insurance without identifying in the advertisement the type of insurance, including, for example, "commercial general liability insurance" or "workers' compensation insurance" that is carried by the contractor. The contractor may abbreviate the title of the type of insurance.

(b) It is cause for discipline for a contractor to advertise that he or she is "bonded" if the reference is to a contractor's license bond required pursuant to Section 7071.6 or to a disciplinary bond required pursuant to Section 7071.8.

17. Section 7109, subdivision (a), of the Code states:

(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.

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

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

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

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

20. Section 7159.5 of the Code states:

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

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

. . . .

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

REGULATORY PROVISION

21. Title 16 California Code of Regulations section 868 states, in pertinent part:

"For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act, as defined in Section 480 of the code, shall be considered to be substantially related to the qualifications, functions, or duties of a licensee (under Division 3, Chapter 9 of the code) if it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the licensee in a manner consistent with the public health, safety, and welfare. The crimes or acts shall include, but not be limited to, the following:

. . . .

"(c) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.

. . . .

"(e) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public."

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COST RECOVERY / RESTITUTION

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

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

259th Pl. PROJECT

24. On or about January 30, 2015, Respondent entered into a written contract with D.B. and F.B., on behalf of their son and homeowner R.S., to perform home improvement work at R.S.'s residence located on 259th Pl. in Lomita, California, for $52,100.00 ("259th Pl. Project"). On or about June 5, 2015, a change order of $8,500.00 was added. Work began on or about June 9, 2015. On or about June 24, 2015, an additional change order of $7,800.00, with subsequent of $1,300.00 deduction, was added. The total contract amount was $67,100.00 plus $3,620.60 for permits and fess, totaling $70,720.60. Work ended on or about August 27, 2015. Respondent was paid $70,720.60 on the project. A structural engineer was hired to evaluate the work performed by Respondent and it was concluded that the project needs structural remediation. The Board's industry expert determined that the work performed by Respondent was not to industry standards. Another Board's industry expert inspected the electrical work completed by Respondent and determined the work was not to industry standards.

FIRST CAUSE FOR DISCIPLINE

(Departure From Accepted Trade Standards)

25. Respondent is subject to disciplinary action under Code section 7109, subdivision (a), in that on the 259th Pl. Project, Respondent willfully departed in a material respect from accepted trade standards for good and workmanlike construction, as follows:

a. Respondent failed to install Simpson Strong HL33 hardware properly as it was out of place in bedroom ceiling girder resulting in misalignment of bolt hole.

b. Respondent failed to use the two 5/8" diameter Titen HD screws properly at the girder end attachments.

c. Respondent failed to attached roof trusses properly with hardware.

d. Respondent failed to repair and secure walls in place on damaged studs.

e. Respondent failed to remove the existing roofing under the new roofing addition.

f. Respondent failed to install the gutter properly.

g. Respondent failed to install anchor bolts properly at the front of the new addition as they were placed at the edge of the sill plate and did not secure the framing to the foundation.

h. Respondent failed to install straps at the bottom of window openings.

i. Respondent failed to place concrete pads properly at two locations.

j. Respondent failed to remove existing discontinuous post.

k. Respondent failed to install shear ply continuously across the entire gable area.

l. Respondent failed to provide circuit breaker handle ties for shared neutral circuits.

SECOND CAUSE FOR DISCIPLINE

(Departure From Plans or Specifications)

26. Respondent is subject to disciplinary action under Code section 7109, subdivision (b), in that on the 259th Pl. Project, Respondent willfully disregarded the project plans and specifications in a material respect, as follows:

a. Incorrect connectors were installed at beam ends in the living area along with gap between framing members.

b. Modified AC6Z post caps were used where HL33 hardware and bolts were intended to be used.

c. Flattened A35 connectors used at post to place connections and the hardware shown on plans had not been installed at the connection.

d. Incorrect size concrete piers (8" x 8") were installed in three locations where 12" x 12" were shown on the approved structural plans.

e. The project was left without retrofit attachments on the existing foundation per plans.

f. Door and overhanging roof were installed 3" off center.

g. Eave vents were not installed per plans.

h. Improper straps were used at window and door opening headers.

i. Sub-feed wire, conduit size, and subpanel for new addition service panel do not meet 150 AMP specification.

THIRD CAUSE FOR DISCIPLINE

(Failure to Complete Project for Contract Price Stated)

27. Respondent is subject to disciplinary action under Code section 7113, in that on the 259th Pl. Project, Respondent failed to complete the project for the contract price, and the homeowner is required to spend substantial amounts in excess of the contract price to complete the project in accordance with the contract.

FOURTH CAUSE FOR DISCIPLINE

(Obtaining of Payments in Excess of Value of Work Performed)

28. Respondent is subject to disciplinary action under Code Section 7159.5, subdivision (a)(5) on the 259th Pl. Project in that Respondent received and/or requested payment(s) in excess of the value of the work performed or materials delivered.

FIFTH CAUSE FOR DISCIPLINE

(Advertising Violation – Identification of Insurance)

29. Respondent is subject to disciplinary action under Code section 7027.4, subdivision (a), in that Respondent advertised that it was insured without identifying in the advertisement the type of insurance.

SIXTH CAUSE FOR DISCIPLINE

(Advertising Violation – Identification of Bonded)

30. Respondent is subject to disciplinary action under Code section 7027.4, subdivision (b), in that Respondent advertised that it was "bonded" without having an additional bond, other than the required bond, filed with the Board.

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SEVENTH CAUSE FOR DISCIPLINE

(Willfully Misrepresented a Material Fact on License Application)

31. Respondent is subject to disciplinary action under section 7112 in that on or about December 15, 1998, Respondent willfully misrepresented a material fact regarding his November 25, 1996 convictions on his Application for Original Contractor's License, classification B, when, under penalty of perjury that all statements, answers and representations made in the application were true and accurate, he answered "No" to question No. 11 that states:

> 11. Have you ever been convicted of any offenses in any state, or elsewhere, other than traffic violations?
> If so, attach a detailed statement including the crime for which there was a conviction, the approximate date, the location, the sentence served, if any, and parole, if any.

The facts and circumstances are that on or about November 25, 1996, Respondent was convicted of one misdemeanor count of violating Penal Code section 487, subdivision (a) [grand theft of money, labor or real or personal property], three misdemeanor counts of violating Penal Code section 484, subdivision (a) [petty theft], and four misdemeanor counts of violating Business and Professions Code section 17500 [false advertising], in the criminal proceeding entitled *The People of the State of California v. Tamir Pinhas* (Mun. Ct. Crim. J. Center Jud. Dist. L.A. County, 1996, No. 6CR12013). The court sentenced Respondent to 75 days to jail, placed him on 36 month probation, and ordered him to make a restitution to victim. On or about May 27, 1999, the court dismissed the case pursuant to Penal Code section 1203.4.

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OTHER MATTERS

32. Pursuant to sections 7097 and 7098 of the Code, if license number 773147 issued to Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any other license issued in the name of Tamir Pinhas or for which Tamir Pinhas furnished the qualifying experience and appearance.

33. Pursuant to section 7121, 7121.5, 7122 and/or 7122.5 of the Code, if discipline is imposed on license number 773147 issued to Respondent, Tamir Pinhas shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual, or member of the personnel of record of any licensee during the time the discipline is imposed, and any licensee which employs, elects, or associates Tamir Pinhas shall be subject to disciplinary action.

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 No. 773147 issued to Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES;

2. Prohibiting Tamir Pinhas from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 773147, issued to Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES;

3. Revoking or suspending any other license for which Tamir Pinhas is furnishing the qualifying experience or appearance;

4. Ordering restitution of all damages according to proof suffered by homeowner, R.S., as a condition of probation in the event probation is ordered;

5. Ordering restitution of all damages suffered by homeowner, R.S., as a result of Tamir Pinhas's conduct as a contractor, as a condition of restoration of license No. 773147, issued to Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES;

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6. Ordering Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES to pay the Registrar of Contractors her costs in the investigation and enforcement of the case according to proof at the hearing, pursuant to Code section 125.3;

7. Ordering Preferred Home Builders, Inc., Tamir Pinhas, RMO/CEO/PRES 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: 4/19/17

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

FILED
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