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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: **E & J CONSTRUCTION LANDSCAPE, INC** 16441 Delone Street Santa Clarita, CA 91387 HUGO HERNANDEZ, CEO/PRES, JOSHUA MARTIN HERNANDEZ, RMO, IVAN RODOLFO HERNANDEZ VIDAL, RMO/CEO/PRES (disassociated 2/29/16) Contractor's License No. 925746, Respondent.	Case No. N2016-300 **A C C U S A T I O N**
DESIGN MANAGEMENT AND CONSTRUCTION SERVICES 24307 Magic Mountain Parkway, Ste 542 Valencia, CA 91355 IVAN RODOLFO HERNANDEZ VIDAL, Sole Owner Contractor's License No. 856999, **and** **SOLARFLEX CONTRACTING, INC.** **dba FLEX CONTRACTING,** 24307 Magic Mountain Parkway, Suite #542 Valencia, CA 91355 IVAN RODOLFO HERNANDEZ VIDAL, RMO, PHILLIP HEE MIN KWON, Officer Contractor's License No. 1009759 Affiliated Parties.	

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.

License Histories

E & J Construction Landscape, Inc.

2. On or about December 5, 2008, the Registrar of Contractors (Registrar) issued Contractor's License No. 925746 to E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal (diss. 2/29/2016) (Respondent). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2018, unless renewed.

Design Management and Construction Services

3. On or about April 6, 2005, the Registrar issued Contractor's License No. 856999 to Design Management and Construction Services, Ivan Rodolfo Hernandez Vidal, Sole Owner (Affiliated Party). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless renewed.

Solarflex Contracting, Inc. dba Flex Contracting

4. On or about December 15, 2015, the Registrar issued Contractor's License No. 1009759 to Solarflex Contracting, Inc. dba Flex Contracting, Ivan Rodolfo Hernandez Vidal, RMO, Phillip Hee Min Kwon, Officer (Affiliated Party). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2017, unless renewed.

JURISDICTION

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

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6. 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.

7. Section 118, subdivision (b) provides, in pertinent part, 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.

8. 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.).

9. Section 7095 states 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 licensee shall be accepted by the Registrar."

10. Sections 7097 and 7098 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, without further notice.

11. Section 7106.5 provides, in pertinent part, 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

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proceed with any investigation of or action or disciplinary proceeding against the license, or to render a decision suspending or revoking the license.

12. Section 7121 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."

13. Section 7121.5 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."

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14. Section 7122 states:

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

15. Section 7122.5 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."

STATUTORY PROVISIONS

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

17. Section 7109 states, in pertinent part:

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

18. Section 7113 states that "[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."

COST RECOVERY/RESTITUTION

19. Section 125.3 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.

20. Government Code section 11519, subdivision (d), provides that specified terms of probation may include an order of restitution, and where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment in a civil action.

CARDINAL DRIVE PROJECT

21. On or about October 26, 2015, Respondent entered into a written agreement with homeowner, D.B., to build a swimming pool and spa at her residence located on Cardinal Drive in Canyon Country, CA, for the amount of $80,455.00 including change orders. On or about January 16, 2016 a second contract was signed that called for construction of a pavilion with attached solid tile covered roof for $10,800.00 which brought the total contract price to $91,255.00 (Cardinal Drive Project). Work began on or about October 26, 2015, and ceased on or about March 28, 2016. Respondent was paid a total amount of $78,455.21. D.B. paid others to ultimately correct and complete the project.

FIRST CAUSE FOR DISCIPLINE

(Abandonment)

22. Respondent is subject to disciplinary action under section 7107, in that on the Cardinal Drive Project, Respondent abandoned the project without legal excuse, failing to complete the following items:

a. Respondent failed to build a pavilion with attached solid tile covered roof.

b. Respondent failed to install pool and spa equipment.

c. Respondent failed to install stucco on retaining and planter wall.

d. Respondent failed to install drain covers at all drain lines.

e. Respondent failed to install finish hardware.

f. Respondent filed to install three pool steps.

g. Respondent failed to remove trash and debris from the jobsite.

SECOND CAUSE FOR DISCIPLINE

(Departure from Accepted Trade Standards)

23. Respondent is subject to disciplinary action under section 7109, subdivision (a), in that on the Cardinal Drive Project, Respondent willfully departed from accepted trade standards for good and workmanlike construction, as follows:

a. Respondent installed five main drain lines with sloping so water flowed and drained into the backyard rather than out to the street. There was also a cracked T-joint water pipe at drain #2.

b. Respondent failed to clear all drains which allowed for two drains on the south-east side of the house to clog and have standing water.

c. Respondent installed a broken water pressure gauge.

d. Respondent installed a broken pool light.

e. Respondent failed to properly install the quick set and grouting on the pool and spa tiles. There were misplaced tiles, inconsistent spacing and unfinished tiles exposed, allowing the tiles to fall off the pool and spa walls.

f. Respondent installed a retaining wall behind the spa that was too short leaving slope of soil less than 1:1.

g. Respondent installed the gas line without the required sleeve or venting.

THIRD CAUSE FOR DISCIPLINE

(Failure to Complete Project for Contract Price Stated)

24. Respondent is subject to disciplinary action under section 7113, in that on the Cardinal Drive Project, Respondent failed in a material respect to complete the project for the price stated in the contract and the home owner is required to spend substantial sums in excess of the contract price to complete the project in accordance with the contract.

OTHER MATTERS

25. Pursuant to sections 7097 and 7098, if license No. 925746 issued to Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any other license

issued in the name of Hugo Hernandez, Joshua Martin Hernandez and/or Ivan Rodolfo Hernandez Vidal or for which Hugo Hernandez, Joshua Martin Hernandez and/or Ivan Rodolfo Hernandez Vidal furnished the qualifying experience and appearance.

26. Pursuant to section 7121, 7121.5, 7122, and/or 7122.5, if discipline is imposed on license No. 925746 issued to Respondent, Hugo Hernandez, Joshua Martin Hernandez and/or Ivan Rodolfo Hernandez Vidal 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 Hugo Hernandez, Joshua Martin Hernandez and/or Ivan Rodolfo Hernandez Vidal shall be subject to disciplinary action.

27. Hugo Hernandez, while serving as CEO/President of Respondent E &J Construction Landscape, Inc., had knowledge of or participated in the acts or omissions which constitute cause for discipline against said Respondent.

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:

As to E & J Construction Landscape, Inc.

1. Revoking or suspending Contractor's License No. 925746 issued to E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal, RMO/CEO/Pres (diss. 2/29/16);

2. Prohibiting Hugo Hernandez, Joshua Martin Hernandez, and/or Ivan Rodolfo Hernandez Vidal from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 925746, issued to E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal, RMO/CEO/Pres (diss. 2/29/2016);

3. Revoking or suspending any other license for which Hugo Hernandez, Joshua Martin Hernandez and/or Ivan Rodolfo Hernandez Vidal is furnishing the qualifying experience or appearance;

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

5. Ordering restitution of all damages suffered by D.B. as a result of Hugo Hernandez, Joshua Martin Hernandez, and/or Ivan Rodolfo Hernandez Vidal's conduct as a contractor, as a condition of restoration of license No. 925746, issued to E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal, RMO/CEO/Pres (diss. 2/29/2016);

6. Ordering E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal, RMO/CEO/Pres (diss. 2/29/2016) to pay the Registrar of Contractors his costs in the investigation and enforcement of the case according to proof at the hearing, pursuant to Business and Professions Code section 125.3;

7. Ordering E & J Construction Landscape, Inc.; Hugo Hernandez, CEO/President, Joshua Martin Hernandez, RMO, Ivan Rodolfo Hernandez Vidal, RMO/CEO/Pres (diss. 2/29/2016) to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

As to Design Management and Construction Services

8. Revoking or suspending Contractor's License Number 856999 issued to Design Management and Construction Services, Ivan Rodolfo Hernandez Vidal, Sole Owner;

9. Prohibiting Ivan Rodolfo Hernandez Vidal from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license Number 856999, issued to Design Management and Construction Services, Ivan Rodolfo Hernandez Vidal, Sole Owner;

10. Revoking or suspending any other license for which Ivan Rodolfo Hernandez Vidal is furnishing the qualifying experience or appearance;

11. Ordering Design Management and Construction Services, Ivan Rodolfo Hernandez Vidal, Sole Owner to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

As to Solarflex Contracting, Inc. dba Flex Contracting

12. Revoking or suspending Contractor's License No. 1009759 issued to Solarflex Contracting, Inc. dba Flex Contracting, Ivan Rodolfo Hernandez Vidal, RMO, Phillip Hee Min Kwon, Officer,

13. Prohibiting Ivan Rodolfo Hernandez Vidal, RMO from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 1009759, issued to Solarflex Contracting, Inc. dba Flex Contracting, Ivan Rodolfo Hernandez Vidal, RMO, Phillip Hee Min Kwon, Officer;

14. Revoking or suspending any other license for which Ivan Rodolfo Hernandez Vidal, RMO is furnishing the qualifying experience or appearance;

15. Ordering Solarflex Contracting, Inc. dba Flex Contracting, to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

As to all

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

DATED: 10/12/17

FILED
OCT 13 2017
CSLB DSS

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

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