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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: **DAVE'S REMODELING INC.** **17734 Ludlow St.** **Granada Hills, Ca 91344** **DAVID YEHIEL TELEM-RMO** **EINAV TELEM-CEO/PRESIDENT** **Contractor's License No. 962447, B** Respondent.	Case No. N2016-323 **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.

2. On or about June 22, 2011, the Registrar of Contractors issued Contractor's License Number 962447, B to Dave's Remodeling Inc. (Respondent); David Yehiel Telem-Responsible Managing Officer (RMO) and Einav Telem- CEO/President. The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.

JURISDICTION

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

4. Section 7076.5 of the Code 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 (Business & Professions Code, § 7000, et seq.).

5. Section 7090 of the Code 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. Sections 7097 and 7098 of the Code provide, in pertinent part, 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.

7. Section 7106.5 of the Code provides, in pertinent part, that the expiration 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 disciplinary action.

8. Section 7109 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."

9. Section 7111 of the Code states:

"(a) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all of his or her transactions as a contractor, and failure to have those records available for inspection by the registrar or his or her duly authorized representative for a period of not less than five years after completion of any construction project or operation to which the records refer, or refusal by a licensee to comply with a written request of the registrar to make the records available for inspection constitutes a cause for disciplinary action.

"(b) Failure of a licensee, applicant, or registrant subject to the provisions of this chapter [the Contractors' State License Law], who without lawful excuse, delays, obstructs, or refuses to comply with a written request of the registrar or designee for information or records, to provide that information or make available those records, when the information or records are required in the attempt to discharge any duty of the registrar, constitutes a cause for disciplinary action."

10. Section 7113 of the Code 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."

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

12. Section 7117.6 of the Code states that "[a]cting in the capacity of a contractor in a classification other than that currently held by the licensee constitutes a cause for disciplinary action."

13. 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."

14. 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."

15. 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."

16. 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."

17. Section 7154 of the Code states:

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

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

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

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

18. Section 7155.5 of the Code states:

"Violations of any provisions of this chapter by a home improvement salesperson likewise constitute cause for disciplinary action against the contractor by whom he or she was employed at the time the violation occurred, whether or not the contractor had knowledge of or participated in the act or omission constituting violations of this chapter."

19. 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, who 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.

20. Section 7161 of the Code states:

"It is a misdemeanor for any person to engage in any of the following acts, the commission of which shall be cause for disciplinary action against any licensee or applicant:

. . .

"(c) Any fraud in the execution of, or in the material alteration of any contract, trust deed, mortgage, promissory note, or other document incident to a home improvement transaction or other transaction involving a work of improvement. . ."

COSTS/RESTITUTION

21. Section 125.3 of the Code provides, in pertinent part, that the Board 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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

FACTUAL BACKGROUND

23. On or about August 14, 2014, Asher Turgeman, unregistered salesperson for Respondent, entered Respondent into a contract with an 83 year-old homeowner, "E.R.", to re-roof her house for $48,130.00. ("E.R. Project"). The scope of the work included demolition of the existing roof, installation of black paper and plywood sheet, installation of new gutters, and installation of new shingles. This project requires a class C-39 license. Respondent is licensed as a class B contractor, not a C-39 contractor.

24. Respondent placed the value of the project at $12,000 on the City of Dixon permit. This was the actual fair market value of the E.R. project. The homeowner, E.R., paid a total of $47,500.00 to Respondent. The timing and amount of the payments made did not comport with the contracted payment plan. Payments were requested before work had been commenced and/or completed.

25. Respondent subcontracted with Saul's Roofing to perform the work on the E.R. Project. Saul's Roofing was an unlicensed contractor.

26. The work on the projected deviated from and failed to meet accepted trade standards in the following respects:

a. Respondent failed to remove the dry-rot that it contracted to remove.

b. Respondent failed to ensure that one of the flashing tops was secure and not broken.

c. Respondent failed replace boards that Respondent cut out and removed from the roof.

27. The work performed did not conform to the plans and/or specifications in that respondent failed to remove and replace all of the dry rot wood and as indicated in the contract.

28. Respondent charged Homeowner E.R. $305.00 for a Greensky Loan fee even though Greensky Funding was not party to this project.

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FIRST CAUSE FOR DISCIPLINE

(Violation of Trade Standards)

29. Respondent is subject to disciplinary action under section 7109(a) of the code in that Respondent willfully violated trade standards of good and workmanlike construction on the E.R.'s Project. The circumstances are further described in paragraph 26 above.

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Records)

30. Respondent is subject to disciplinary action under section 7111 of the code in that Respondent failed to have records and/or make those records available for inspection after a written request from the CSLB to do so. A CSLB investigator, on behalf of the Registrar, requested document and records from Respondent concerning the E.R Project. Information and documentation was requested about Saul's Roofing, RSG Roofing Supply, and the Greensky loan fees. Respondent failed to provide the requested information and documents.

THIRD CAUSE FOR DISCIPLINE

(Failure to Complete the Project for the Contract Price)

31. Respondent is subject to disciplinary action under section 7113 of the code in that Respondent failed to complete the E.R. Project for the contract price. The work contracted for was not completed and the work performed failed to meet trade standards. The homeowner will need to spend a substantial amount above the contract price to have the work completed in a manner that meets trade standards for good and workmanlike construction.

FOURTH CAUSE FOR DISCIPLINE

(Willful of Fraudulent Acts)

32. Respondent is subject to disciplinary action under section 7116 of the code in that Respondent committed willful or fraudulent acts in which another was injured. Respondent's contract with E.R., an elderly homeowner, was egregiously overpriced. Respondent collected money in excess of the value of the work performed and did not follow the payment schedule in the contract. Respondent reported an incorrect price on the permit documents to avoid fees. The circumstances are further described in paragraphs 23-28, above.

FIFTH CAUSE FOR DISCIPLINE

(Working Out of Classification)

33. Respondent is subject to disciplinary action under section 7117.6 of the code in that Respondent contracted for and performed work out of its license classification. The contract and work on the E.R Project required a C-39 roofing license. Respondent is only licensed as a B class contractor.

SIXTH CAUSE FOR DISCIPLINE

(Contracting with Unlicensed Contractor)

34. Respondent is subject to disciplinary action under section 7118 of the code in that Respondent entered into a contract with "Saul's Roofing," an unlicensed contractor, to perform the work on the E.R. Project.

SEVENTH CAUSE FOR DISCIPLINE

(Employment of Unregistered Salesperson)

35. Respondent is subject to disciplinary action under section 7154 of the code in that Respondent employed an unregistered salesperson, Asher Turgeman. When Mr. Turgeman executed the contract between E.R and Respondent for the E.R. Project he was not registered as a salesperson with the CSLB.

EIGHTH CAUSE FOR DISCIPLINE

(Receiving Payment in Excess of the Value of the Work)

36. Respondent is subject to disciplinary action under section 7159.5, subsection (a)(5) in that Respondent collected payments for the E.R. project in excess of the value of the work performed on the E.R. project. Respondent did not follow the payment schedule provided in the contract.

NINTH CAUSE FOR DISCIPLINE

(Fraud in Documents)

37. Respondent is subject to disciplinary action under section 7161, subsection (c), of the code in that Respondent committed fraud in the execution of the E.R. project contract and/or in

filing the City of Dixon Permit. On the permit application Respondent claimed the value of the E.R. project was $12,000. However, the contract for the E.R. project was $48,130.00.

OTHER MATTERS

38. Pursuant to Code sections 7097 and 7098, if Contractor's License Number 962447, B issued to Dave's Remodeling Inc. is suspended or revoked by decision of the Registrar, then the Registrar may suspend or revoke without notice, any other license issued in the name of Dave's Remodeling Inc., or for which Dave's Remodeling Inc. or David Yehiel Telem has furnished the qualifying experience and appearance.

39. Pursuant to sections 7121 and 7121.5 of the Code, if discipline is imposed on license number 962447, B issued to Dave's Remodeling Inc., David Yehiel Telem -RMO, then David Yehiel Telem shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the time the discipline is imposed, and any licensee which employs, elects, or associates David Yehiel Telem 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 Number 962447, B issued to Dave's Remodeling Inc.;

2. Prohibiting David Yehiel Telem from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license Number 962447, B, issued to Dave's Remodeling Inc.;

3. Revoking or suspending any other license for which David Yehiel Telem is furnishing the qualifying experience or appearance;

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

5. Ordering restitution of all damages suffered by E.R. as a result of Dave's Remodeling Inc. conduct as a contractor, as a condition of restoration of license Number 962447, B, issued to Dave's Remodeling Inc.;

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6. Ordering Dave's Remodeling Inc. to pay the Registrar of Contractors her 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 Dave's Remodeling Inc. and David Yehiel Telem to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

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

DATED: 5/30/17

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

FILED
MAY 30 2017
CSLB DSS