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

12 In the Matter of the Accusation Against:

Case No. N2016-384

13 **GREEN BAY REMODELING INC.**
14 **NICHOLAS RAYMOND GARCIA, RMO**
15 **AVICHAH HAZAN, CEO / PRESIDENT**
16 **JOEL GOMEZ, RMO (6/12/14 - 7/20/17)**
1170 Burnett Avenue, Ste. S
Concord, CA 94520

A C C U S A T I O N

17 Contractor License No. 993580

18 **Respondent.**

19 **CAL CONSTRUCTION**
20 **JOEL GOMEZ, SOLE OWNER**
34 Niantic Avenue
San Francisco, CA 94132

21 Contractor License No. 909060

22 **Affiliated License.**

23
24 Complainant alleges:

25 **PARTIES**

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

2. On or about June 12, 2014, the Registrar of Contractors (Registrar) issued Contractor's License Number 993580 to Green Bay Remodeling Inc. (Respondent) with Avichai Hazan as CEO / President and Joel Gomez as RMO. On or about July 20, 2017, Joel Gomez disassociated from the license. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2018, unless renewed.

3. On or about January 14, 2008, the Registrar issued Contractor's License Number 909060 to Cal Construction with Joel Gomez as sole owner. The license was in full force and effect at all times relevant to the charges brought herein and expired on January 31, 2018, and has not been renewed.

JURISDICTION

4. 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.

5. Section 7090 of the Business and Professions Code ("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. Section 7097 of the Code 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.”

7. Section 7098 of the Code 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

1 license issued under this chapter in the name of the licensee or for which the licensee furnished
2 qualifying experience and appearance under the provisions of Section 7068, may be revoked by
3 the registrar without further notice."

4 8. Section 7106.5 of the Code provides, in pertinent part, that the expiration,
5 cancellation, forfeiture, or suspension of a license by operation of law or by order or decision of
6 the registrar, or a court of law, or the voluntary surrender of the license shall not deprive the
7 registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
8 against the license, or to render a decision suspending or revoking the license.

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

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

17 STATUTORY PROVISIONS

18 11. Section 7110 of the Code states:

19 "Willful or deliberate disregard and violation of the building laws of the state, or of any
20 political subdivision thereof, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to
21 1689.8, inclusive, or Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety
22 laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the
23 state, or violation by any licensee of any provision of the Health and Safety Code or Water Code,
24 relating to the digging, boring, or drilling of water wells, or Article 2 (commencing with Section
25 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, constitutes a cause for
26 disciplinary action."

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1 12. Section 7068.1 of the Code states:

2 “(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3),
3 or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct
4 supervision and control of his or her employer's or principal's construction operations to secure
5 compliance with this chapter and the rules and regulations of the board. This person shall not act
6 in the capacity of the qualifying person for an additional individual or firm unless one of the
7 following conditions exists:

8 “(1) There is a common ownership of at least 20 percent of the equity of each individual or
9 firm for which the person acts in a qualifying capacity.

10 “(2) The additional firm is a subsidiary of or a joint venture with the first. ‘Subsidiary,’ as
11 used in this subdivision, means any firm at least 20 percent of the equity of which is owned by
12 the other firm.

13 “(3) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section
14 7068, the majority of the partners, officers, or managers are the same.

15 “(b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (a), a qualifying
16 individual may act as the qualifier for no more than three firms in any one-year period.

17 “(c) The following definitions shall apply for purposes of this section: (1) ‘Firm’ means a
18 partnership, a limited partnership, a corporation, a limited liability company, or any other
19 combination or organization described in Section 7068. (2) ‘Person’ is limited to natural persons,
20 notwithstanding the definition of ‘person’ in Section 7025.

21 “(d) The board shall require every applicant or licensee qualifying by the appearance of a
22 qualifying individual to submit detailed information on the qualifying individual's duties and
23 responsibilities for supervision and control of the applicant's construction operations.

24 “(e) Violation of this section shall constitute a cause for disciplinary action and shall be
25 punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine
26 of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000),
27 or by both the fine and imprisonment.”
28

13. Section 7117 of the Code states that "[a]cting in the capacity of a contractor under any license issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this chapter [the Contractors' License Law], constitutes a cause for disciplinary action."

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Registrar may request the administrative law judge to direct a licensee 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.

ARTHUR ROAD PROJECT

15. On or about May 25, 2016, C. M. (Consumer) entered into a written contract with Respondent for \$33,000.00 to remodel her home located on Arthur Drive in Martinez, California (Arthur Road Project). Respondent and Consumer agreed to and signed three written change orders for additional work on the home bringing the total amount of the contract to \$42,850.00.

16. Respondent started work and installed a tankless water heater, a shower pan, and recessed lighting. Consumer paid \$30,885.00 to Respondent before Consumer terminated the contract. Consumer hired a subcontractor to complete the project.

17. Respondent's RMO Joel Gomez never visited the project site. Mr. Gomez did not have any detailed knowledge of the Arthur Road Project. Mr. Gomez reviewed none of the work performed by Respondent at the Arthur Road Project. Consumer never met or communicated with Mr. Gomez. Mr. Gomez is not listed as an officer with the California Secretary of State for the corporation known as Green Bay Remodeling Inc.

FIRST CAUSE FOR DISCIPLINE

(Failure to Obtain Permit)

18. Respondent has subjected its license to discipline in that Respondent failed to comply with the building laws of the State of California or any of its political subdivisions. (Bus. & Prof.

1 Code, §§ 7090, 7110.) The circumstances are that Respondent failed to obtain a building permit
2 from the City of Martinez for the Arthur Road Project.

3 SECOND CAUSE FOR DISCIPLINE

4 (Failure to Exercise Responsibilities)

5 19. Respondent has subjected its license to discipline in that Respondent's RMO Joel
6 Gomez failed to exercise supervision and control over the construction operations of the Arthur
7 Road Project. (Bus. & Prof. Code, §§ 7090, 7068.1.) The circumstances are described above in
8 paragraphs 15 - 17.

9 THIRD CAUSE FOR DISCIPLINE

10 (Not listed as Officer)

11 20. Respondent has subjected its license to discipline in that Respondent's RMO Joel
12 Gomez is not listed as an officer with the California Secretary of State for the corporation known
13 as Green Bay Remodeling Inc. (Bus. & Prof. Code, §§ 7090, 7017, subd. (b).)

14 OTHER MATTERS

15 21. Pursuant to sections 7097 and 7098 of the Code, if license number 993580 issued to
16 Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any
17 other license issued in the name of Green Bay Remodeling Inc., or for which Joel Gomez
18 furnished the qualifying experience and appearance.

19 22. Avichai Hazan, while serving as CEO/President of Respondent, had knowledge of or
20 participated in the acts or omissions which constitute cause for discipline against said
21 Respondent.

22 23. Pursuant to section 7121 of the Code, if discipline is imposed on license number
23 993580 issued to Respondent, Joel Gomez and Avichai Hazan shall be prohibited from serving as
24 an officer, director, associate, partner, manager, or qualifying individual, or member of the
25 personnel of record of a licensee of any licensee during the time the discipline is imposed, and
26 any licensee which employs, elects, or associates Joel Gomez and/or Avichai Hazan shall be
27 subject to disciplinary action.

24. Pursuant to Section 7121.5 of the Code, if discipline is imposed on license number 993580 issued to Respondent, Joel Gomez shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of any licensee during the time the discipline is imposed, whether or not he had knowledge or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects, or associates Joel Gomez shall be subject to disciplinary action.

25. 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.

26. Section 7095 of the Code 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 licensee shall be accepted by the Registrar.

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 993580 issued to Green Bay Remodeling Inc.;

2. Prohibiting Joel Gomez and Avichai Hazan from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license Number 993580, issued to Green Bay Remodeling Inc.;

1 3. Revoking or suspending any other license for which Joel Gomez and/or Avichai
2 Hazan is furnishing the qualifying experience or appearance;

3 4. Ordering Green Bay Remodeling Inc. to pay the Registrar of Contractors his costs in
4 the investigation and enforcement of the case according to proof at the hearing, pursuant to
5 Business and Professions Code section 125.3;

6 5. Ordering Green Bay Remodeling Inc. to provide the Registrar with a listing of all
7 contracting projects in progress and the anticipated completion date of each;

8 6. Revoking or suspending Contractor's License Number 909060 issued to Cal
9 Construction;

10 7. Prohibiting Joel Gomez from serving as an officer, director, associate, partner, or
11 qualifying individual of any licensee during the period that discipline is imposed on license
12 Number 909060, issued to Cal Construction;

13 8. Revoking or suspending any other license for which Joel Gomez is furnishing the
14 qualifying experience or appearance;

15 9. Ordering Cal Construction to provide the Registrar with a listing of all contracting
16 projects in progress and the anticipated completion date of each;

17 10. Taking such other and further action as deemed necessary and proper.

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20 DATED: _____

04/04/18

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22 FILED

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

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