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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.**
NICHOLAS RAYMOND GARCIA, RMO
14 **AVICHAI HAZAN, CEO / PRESIDENT**
JOEL GOMEZ, RMO (6/12/14 - 7/20/17)
15 **1170 Burnett Avenue, Ste. S**
Concord, CA 94520

FIRST AMENDED ACCUSATION

16 Contractor License No. 993580

17 Respondent.

18 **CAL CONSTRUCTION**
19 **JOEL GOMEZ, SOLE OWNER**
34 Niantic Avenue
20 **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 First Amended Accusation solely in his
27 official capacity as the Enforcement Supervisor I of the Contractors' State License Board,
28 Department of Consumer Affairs.

2. On or about June 12, 2014, the Registrar of Contractors ("Registrar") issued Contractor 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 in this First Amended Accusation and will expire on June 30, 2020, unless renewed.

3. On or about January 14, 2008, the Registrar issued Contractor 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 in this First Amended Accusation and expired on January 31, 2018, and has not been renewed.

JURISDICTION

4. This First Amended 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 118, subdivision (b) states:**

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. **Section 7076.5, subdivision (h) states:**

“(h) The inactive status of a license shall not bar any disciplinary action by the board against a licensee for any of the causes stated in this chapter.”

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1 7. **Section 7090** provides, in part, that the Registrar may suspend or revoke any license
2 or registration if the licensee or registrant is guilty of or commits any one or more of the acts or
3 omissions constituting cause for disciplinary action.

4 8. **Section 7097** states:

5 “Notwithstanding the provisions of Sections 7121 and 7122, when any license has been
6 suspended by a decision of the registrar pursuant to an accusation or pursuant to subdivision (b)
7 of Section 7071.17, Section 7085.6 or 7090.1, any additional license issued under this chapter in
8 the name of the licensee or for which the licensee furnished qualifying experience and appearance
9 under the provisions of Section 7068, may be suspended by the registrar without further notice.”

10 9. **Section 7098** states:

11 “Notwithstanding the provisions of Sections 7121 and 7122, when any license has been
12 revoked under the provisions of this chapter, any additional license issued under this chapter in
13 the name of the licensee or for which the licensee furnished qualifying experience and appearance
14 under the provisions of Section 7068, may be revoked by the registrar without further notice.”

15 10. **Section 7106.5** states:

16 “The expiration, cancellation, forfeiture, revocation, or suspension of a license by operation
17 of law or by order or decision of the registrar or a court of law, or the voluntary surrender of a
18 license by a licensee, shall not deprive the registrar of jurisdiction to proceed with any
19 investigation of or action or disciplinary proceeding against the license, or to render a decision
20 suspending or revoking the license.”

21 **STATUTORY PROVISIONS**

22 11. **Section 7065, subdivisions (b) and (c)** state:

23 “(b) Contractors’ licenses are to be issued to individual owners, partnerships, corporations,
24 and limited liability companies in accordance with this chapter.

25 “(1) Every person who is an officer, member, responsible manager, or director of a
26 corporation or limited liability company seeking licensure under this chapter shall be listed on the
27 application as a member of the personnel of record.

1 “(2) Every person who is a member of a partnership seeking licensure under this chapter
2 shall be listed on the application as a member of the personnel record.

3 “(c) An applicant shall qualify for licensure in accordance with this subdivision as follows:

4 “(1) An individual owner may qualify by examination for a contractor's license upon the
5 appearance of the owner or a qualifying individual appearing as a responsible managing
6 employee on behalf of the owner.

7 “(2) A partnership may qualify by examination for a contractor's license upon the
8 appearance of a partner or a qualifying individual appearing as a responsible managing employee
9 on behalf of the partnership.

10 “(3) A corporation may qualify by examination for a contractor's license upon the
11 appearance of a qualifying individual appearing either as a responsible managing officer or a
12 responsible managing employee on behalf of the corporation.

13 “(4) A limited liability company may qualify by examination for a contractor's license upon
14 the appearance of a qualifying individual appearing as a responsible managing officer, a
15 responsible managing manager, a responsible managing member, or a responsible managing
16 employee on behalf of the company.”

17 12. **Section 7110** states:

18 “Willful or deliberate disregard and violation of the building laws of the state, or of any
19 political subdivision thereof, or of Section 8550 or 8556 of this code, or of Sections 1689.5 to
20 1689.15, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation
21 insurance laws or Unemployment Insurance Code of the state, or of the Subletting and
22 Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of
23 Division 2 of the Public Contract Code), or violation by any licensee of any provision of the
24 Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells,
25 or Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the
26 Government Code, constitutes a cause for disciplinary action.”

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1 13. **Section 7068.1** 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 supervision
4 and control of his or her employer's or principal's construction operations to secure compliance
5 with this chapter and the rules and regulations of the board. This person shall not act in the
6 capacity of the qualifying person for an additional individual or firm unless one of the following
7 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 the
12 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:

18 “(1) ‘Firm’ means a partnership, a limited partnership, a corporation, a limited liability
19 company, or any other combination or organization described in Section 7068.

20 “(2) ‘Person’ is limited to natural persons, notwithstanding the definition of “person” in
21 Section 7025.

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

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

1 14. **Section 7117** states:

2 “Acting in the capacity of a contractor under any license issued hereunder except: (a) in the
3 name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the
4 licensee as set forth in the application for such license, or as later changed as provided in this
5 chapter, constitutes a cause for disciplinary action.”

6 **COST RECOVERY**

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

10 **ARTHUR ROAD PROJECT**

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

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

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Failure to Obtain Permit)

24 (Bus. & Prof. Code §§ 7090 and 7110)

25 19. Respondent has subjected its license to discipline in that Respondent failed to comply
26 with the building laws of the State of California or any of its political subdivisions. (Bus. & Prof.
27 Code §§ 7090 and 7110). The circumstances are that Respondent failed to obtain a building
28 permit from the City of Martinez for the Arthur Road Project.

1 SECOND CAUSE FOR DISCIPLINE
2 (Failure to Exercise Responsibilities)
3 (Bus. & Prof. Code §§ 7090 and 7068.1)

4 20. Respondent has subjected its license to discipline in that Respondent's RMO Joel
5 Gomez failed to exercise supervision and control over the construction operations of the Arthur
6 Road Project. (Bus. & Prof. Code §§ 7090 and 7068.1). The circumstances are described above
7 in paragraphs 16 through 18.

8 THIRD CAUSE FOR DISCIPLINE
9 (Not Listed as Officer)
10 (Bus. & Prof. Code §§ 7090 and 7117, subd. (b))

11 21. 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 and 7117, subd. (b)).

14 OTHER MATTERS

15 22. Pursuant to Sections 7097 and 7098, if Contractor 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 23. 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 24. Pursuant to Section 7121, if discipline is imposed on Contractor 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.

28 25. Pursuant to Section 7121.5, if discipline is imposed on Contractor 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

1 is imposed, whether or not he had knowledge or participated in the acts or omissions constituting
2 grounds for discipline, and any licensee which employs, elects, or associates Joel Gomez shall be
3 subject to disciplinary action.

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

8 27. Section 7095 provides, in part, that the Registrar in making his order may:

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

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

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

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
19 First Amended Accusation, and that following the hearing, the Registrar of Contractors issue a
20 decision:

21 1. Revoking or suspending Contractor License Number 993580 issued to Green Bay
22 Remodeling Inc.;

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

26 3. Revoking or suspending any other license for which Joel Gomez and/or Avichai
27 Hazan is furnishing the qualifying experience or appearance;
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1 4. Ordering Green Bay Remodeling Inc. to pay the Registrar of Contractors his costs in
2 the investigation and enforcement of the case according to proof at the hearing, pursuant to
3 Section 125.3;

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

6 6. Revoking or suspending Contractor License Number 909060 issued to Cal
7 Construction;

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

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

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

15 10. Taking such other and further action as deemed necessary and proper.
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18 DATED:

7-31-2018

19 **FILED**

20 JUL 31 2018

21 **CSLB DSS**

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WOOD ROBINSON
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Contractors' State License Board
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Complainant

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