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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: **EVR GARD CONSTRUCTION,** RANDOLPH JAMES MALVEAUX, RMO/CEO-President, ERMA JEAN MALVEAUX, Officer 10736 Jefferson Boulevard, #410 Culver City, CA 90230 Contractor's License No. 621683 Respondent. **RANDY JAMES MALVEAUX,** Sole Owner 5711 West Slauson Avenue, Suite 150 Culver City, CA 90230 Contractor's License No. 353838 **AND** **ERMA MALVEAUX,** Sole Owner 5711 West Slauson Avenue, #150 Culver City, CA 90230 Contractor's License No. 753182 Affiliated Parties.	Case No. N2017-159 **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. **EVR Gard Construction** - On or about June 10, 1991, the Registrar of Contractors (Registrar) issued Contractor's License No. 621683 to EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, and Erma Jean Malveaux, Officer (Respondent). 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.

3. **Randy James Malveaux** - On or about April 12, 1978, the Registrar issued Contractor's License No. 353838 to Randy James Malveaux, Randolph James Malveaux, Sole Owner (Affiliated Party). The Contractor's License will expire on November 30, 2019, unless renewed.

4. **Erma Malveaux** - On or about August 19, 1998, the Registrar issued Contractor's License No. 753182 to Erma Malveaux, Sole Owner (Affiliated Party). The Contractor's License expired on August 31, 2016 and has not been renewed.

JURISDICTION

5. 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.

STATUTORY PROVISIONS

6. 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.

7. Section **7106.5** of the Code 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 proceed with any investigation of or action or disciplinary proceeding against the license, or to render a decision suspending or revoking the license.

8. 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 (Bus. & Prof. Code, ▪ 7000, et seq.).

9. 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 license shall be accepted by the Registrar.

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

11. 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."

COST RECOVERY

12. Section **125.3** of the Code provides, in pertinent part, 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.

RESTITUTION

13. 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.

FACTUAL ALLEGATIONS - THE PURNELL PROJECT

14. In or about 2000 R. Purnell ("Purnell") purchased her single family residence located on Needles Street in the city of Chatsworth, CA. On or about March 12, 2007, the house caught on fire causing severe damage.

15. On or about March 30, 2007, Purnell entered into contract with Respondent to repair the fire damage and build an addition to the residence for $393,209.74. Work on the project started in or about November 2007. Work was completed on or about July 1, 2008.

16. In or about October 2010 Purnell and representatives of Respondent had contacts related to leaks in the roof of the residence over the den. Although some repairs were made by Respondent in approximately October, 2010, the problem continued, and the roof continued to leak.

17. In approximately March 2012, Purnell, who was in ill health, requested a relative assist her to resolve the roof leak. On or about May 9, 2012, R. Purnell died.

18. On or about December 24, 2015, a complaint with the Board was filed by the executor of R. Purnell's estate, complaining of numerous items, some of which fell outside of the 4 years' limitations period. However, complaints regarding the beam separating the living room from the

dining room and the ridge beam were determined to be structural, falling within the 10-year limitations period (latent defect). The contractor failed to remove and replace the fire damaged beams, according to the plans, permit, and Farmers Insurance estimate, compromising the integrity of the framing members.

19. The Board's expert determined the cost to correct the beam work is $25,000.00.

FIRST CAUSE FOR DISCIPLINE

(Departure From Accepted Trade Standards)

20. Respondent is subject to disciplinary action under section 7109, subdivision (a), in that on the Purnell Project, Respondent willfully departed from accepted trade standards for good and workmanlike construction in the following material respects:

A. Allegations of paragraph 14-19 are realleged as though fully set forth.

B. In making post-fire repairs in 2007-2008, Respondent failed to remove and replace all of the fire damaged framing members, including the beam that separates the living room from the dining room, and the ridge beam in the living room which compromised the integrity of the framing. The removal and replacement was called for in signed plans dated August 6, 2007, permit# 07014-70000-05246, and the Farmers Insurance Building estimate, dated March 21, 2007.

DISCIPLINE CONSIDERATIONS

21. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 15, 2015, in a prior disciplinary action entitled *In the Matter of the Accusation vs. EVR Gard Construction et al.,* before the Contractors' State License Board, in Case Number N2012-259, Respondent's license was revoked, revocation stayed and placed on three (3) years' probation. Respondent was disciplined for multiple violations, including departure from accepted trade standards for good and workmanlike construction under Business and Professions Code section 7109(a), and ordered to pay restitution. That decision is now final and is incorporated by reference as though fully set forth.

OTHER MATTERS

22. Pursuant to sections 7097 and 7098, if license no. 621683 issued to Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any other licenses

issued in the name of Randolph James Malveaux or Erma Jean Malveaux or for which Randolph James Malveaux or Erma Jean Malveaux furnished the qualifying experience and appearance.

23. Pursuant to section 7121 of the Code, if discipline is imposed on license number 621683 issued to Respondent, Randolph James Malveaux and/or Erma Jean Malveaux 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 Randolph James Malveaux and/or Erma Jean Malveaux shall be subject to disciplinary action.

24. Pursuant to Section 7121.5 of the Code, if discipline is imposed on license number 621683 issued to Respondent, Randolph James Malveaux 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 Randolph James Malveaux 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 issue a decision:

1. Revoking or suspending Contractor's License No. 621683 issued to EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, Erma Jean Malveaux, Officer;

2. Prohibiting Randolph James Malveaux and Erma Jean Malveaux from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license No. 621683, issued to EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, and/or Erma Jean Malveaux, Officer;

3. Revoking or suspending any other license for which Randolph James Malveaux and/or Erma Jean Malveaux is furnishing the qualifying experience or appearance;

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

5. Ordering restitution of all damages suffered by R.Purnell /Purnell Estate as a result of

Randolph James Malveaux's and/or Erma Jean Malveaux's conduct as a contractor, as a condition of restoration of license No. 621683, issued to EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, Erma Jean Malveaux, Officer;

6. Ordering EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, Erma Jean Malveaux, Officer to pay the Registrar his costs in the investigation and enforcement of the case according to proof at the hearing, pursuant to section 125.3;

7. Ordering EVR Gard Construction, Randolph James Malveaux, RMO/CEO-President, Erma Jean Malveaux, Officer 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: 6/13/2018

FILED
JUN 13 2018
CSLB DSS

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

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