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7
8 **BEFORE THE**
9 **REGISTRAR OF CONTRACTORS**
10 **CONTRACTORS' STATE LICENSE BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. N2017-216

14 **GABOR FRANK MAGYARI, Sole Owner,**
15 **dba ROOF - RITE ROOFING**

16 39439 Obsidian Court
Palmdale, CA 93551

A C C U S A T I O N

17 Contractor's License No. 373537

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 **License History**

25 2. On or about April 13, 1979, the Registrar of Contractors (Registrar) issued
26 Contractor's License No. 373537 to Gabor Frank Magyari, Sole Owner, dba Roof - Rite Roofing
(Respondent). The Contractor's License was in full force and effect at all times relevant to the
charges brought herein and will expire on August 31, 2019, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Registrar for the Board, under the authority of

1 the following laws. All section references are to the Business and Professions Code unless
2 otherwise indicated.

3 4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive
4 the Registrar of jurisdiction to proceed with a disciplinary action during the period within which
5 the license may be renewed, restored, reissued or reinstated. Under section 7076.1, the Registrar
6 may reinstate a cancelled license if the licensee pays all of the fees and meets all of the
7 qualifications and requirements for obtaining an original license.

8 5. Section 7076.5 provides that the inactive status of a license shall not bar any
9 disciplinary action for violating provisions of the Contractors' State License Law (Bus. & Prof.
10 Code, ' 7000, et seq.).

11 6. Section 7090 provides that the Registrar may suspend or revoke any license or
12 registration if the licensee or registrant is guilty of or commits any one or more of the acts or
13 omissions constituting cause for disciplinary action.

14 7. Section 7095 states that the Registrar in making his order may:

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

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

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

23 8. Sections 7097 and 7098 provides that when any license has been suspended or
24 revoked following a hearing, the Registrar may suspend or revoke any additional license issued in
25 the name of the licensee or for which the licensee furnished qualifying experience and appearance
26 under the provisions of 7068, without further notice.

27 9. Section 7106.5 provides that the expiration, cancellation, forfeiture, or suspension of a
28 license by operation of law or by order or decision of the registrar, or a court of law, or the

1 voluntary surrender of the license shall not deprive the registrar of jurisdiction to proceed with any
2 investigation of or action or disciplinary proceeding against the license, or to render a decision
3 suspending or revoking the license.

4 10. Section 7121 states:

5 "A person who has been denied a license for a reason other than failure to document
6 sufficient satisfactory experience for a supplemental classification for an existing license, or who
7 has had his or her license revoked, or whose license is under suspension, or who has failed to
8 renew his or her license while it was under suspension, or who has been a partner, officer, director,
9 manager, or associate of any partnership, corporation, limited liability company, firm, or
10 association whose application for a license has been denied for a reason other than failure to
11 document sufficient satisfactory experience for a supplemental classification for an existing license,
12 or whose license has been revoked, or whose license is under suspension, or who has failed to
13 renew a license while it was under suspension, and while acting as a partner, officer, director,
14 manager, or associate had knowledge of or participated in any of the prohibited acts for which the
15 license was denied, suspended, or revoked, shall be prohibited from serving as an officer, director,
16 associate, partner, manager, qualifying individual, or member of the personnel of record of a
17 licensee, and the employment, election, or association of this type of person by a licensee in any
18 capacity other than as a nonsupervising bona fide employee shall constitute grounds for
19 disciplinary action."

20 11. Section 7121.5 states:

21 "A person who was the qualifying individual on a revoked license, or of a license under
22 suspension, or of a license that was not renewed while it was under suspension, shall be prohibited
23 from serving as an officer, director, associate, partner, manager, or qualifying individual of a
24 licensee, whether or not the individual had knowledge of or participated in the prohibited acts or
25 omissions for which the license was revoked, or suspended, and the employment, election, or
26 association of that person by a licensee shall constitute grounds for disciplinary action."

27 12. Section 7122 states:

28 "The performance by an individual, partnership, corporation, limited liability company, firm,

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

6 13. Section 7122.5 states:

7 "The performance by an individual, partnership, corporation, limited liability company, firm,
8 or association of an act or omission constituting a cause for disciplinary action, likewise constitutes
9 a cause for disciplinary action against a licensee who at the time that the act or omission occurred
10 was the qualifying individual of that individual, partnership, corporation, limited liability company,
11 firm, or association, whether or not he or she had knowledge of or participated in the prohibited
12 act or omission."

13 14. Section 7141 states:

14 "(a) Except as otherwise provided in this chapter, a license that has expired may be
15 renewed at any time within five years after its expiration by filing an application for renewal on a
16 form prescribed by the registrar and payment of the appropriate renewal fee. Renewal under this
17 section shall be effective on the date an acceptable renewal application is filed with the board. The
18 licensee shall be considered unlicensed and there will be a break in the licensing time between the
19 expiration date and the date the renewal becomes effective. Except as provided in subdivision (b),
20 if the license is renewed after the expiration date, the licensee shall also pay the delinquency fee
21 prescribed by this chapter.

22 "(b) An incomplete renewal application that had originally been submitted on or before the
23 license expiration date shall be returned to the licensee by the registrar with an explanation of the
24 reasons for its rejection. If a corrected and acceptable renewal application is not returned within 30
25 days after the license expiration date, the delinquency fee shall apply. The 30 day grace period shall
26 apply only to the delinquency fee. The license shall reflect an expired status for any period between
27 the expiration date and the date of submission of a correct and acceptable renewal application.

28 "(c) If so renewed, the license shall continue in effect through the date provided in Section

1 7140 that next occurs after the effective date of the renewal, when it shall expire if it is not again
2 renewed.

3 "(d) If a license is not renewed within five years, the licensee shall make an application for a
4 license pursuant to Section 7066."

5 **STATUTORY PROVISIONS**

6 15. Section 490 provides that a board may suspend or revoke a license on the ground that
7 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
8 duties of the business or profession for which the license was issued.

9 16. Section 493 states:

10 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
11 the department pursuant to law to deny an application for a license or to suspend or revoke a
12 license or otherwise take disciplinary action against a person who holds a license, upon the ground
13 that the applicant or the licensee has been convicted of a crime substantially related to the
14 qualifications, functions, and duties of the licensee in question, the record of conviction of the
15 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
16 and the board may inquire into the circumstances surrounding the commission of the crime in order
17 to fix the degree of discipline or to determine if the conviction is substantially related to the
18 qualifications, functions, and duties of the licensee in question.

19 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
20 'registration.'"

21 17. Section 7123 states that "[a] conviction of a crime substantially related to the
22 qualifications, functions and duties of a contractor constitutes a cause for disciplinary action. The
23 record of the conviction shall be conclusive evidence thereof."

24 **REGULATORY PROVISION**

25 18. California Code of Regulations, title 16, section 868 states:

26 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
27 (commencing with Section 475) of the code, a crime or act, as defined in Section 480 of the code,
28 shall be considered to be substantially related to the qualifications, functions, or duties of a

licensee (under Division 3, Chapter 9 of the code) if it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the licensee in a manner consistent with the public health, safety, and welfare. The crimes or acts shall include, but not be limited to, the following:

“(a) Any violation of the provisions of Chapter 9 of Division 3 of the code.

“(b) Failure to comply with the provisions of the California Administrative Code, Chapter 8, Title 16.

“(c) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.

“(d) Crimes or acts involving physical violence against persons.

“(e) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.”

COST RECOVERY

19. Section 125.3 provides 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.

CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

20. Respondent is subject to disciplinary action under sections 490 and 7123, in conjunction with California Code of Regulations, title 16, section 868, in that on or about September 1, 2017, Respondent was convicted of a crime substantially related to the qualifications, functions and duties of a contractor. The circumstances are as follows:

a. On or about September 1, 2017, after pleading nolo contendere and admitting to sustaining prior criminal convictions¹, Respondent was convicted of one felony count of violating

¹ On or about July 13, 1989, felony conviction of violating Penal Code section 211 [robbery: second degree], Case No. A712692.

On or about April 27, 1993, felony conviction of violating Penal Code section 211 [robbery: second degree], Case No. LA011538.

On or about July 27, 1993, felony conviction of violating Penal Code section 211 [robbery: second degree], Case No. LA011538.

1 Penal Code section 118(a) [perjury by declaration] in the criminal proceeding entitled *The People*
2 *of the State of California v. Gabor Frank Magyari* (Super. Ct. L.A. County, 2017, No.
3 MA071170). The Court sentenced Respondent to one day in jail, placed him on three years of
4 probation and ordered him to complete 30 days of community labor.

5 b. The circumstances underlying the conviction are that on or about December 15, 2016,
6 Respondent falsely reported his vehicle as stolen.

7 OTHER MATTERS

8 21. Pursuant to sections 7097 and 7098, if license No. 373537 issued to Respondent is
9 suspended or revoked, the Registrar may suspend or revoke, without notice, any other license
10 issued in the name of Gabor Frank Magyari or for which Gabor Frank Magyari furnished the
11 qualifying experience and appearance.

12 22. Pursuant to sections 7121, 7121.5, 7122 and / or 7122.5, if discipline is imposed on
13 license No. 373537 issued to Respondent, Gabor Frank Magyari shall be prohibited from serving
14 as an officer, director, associate, partner, manager, or qualifying individual, or member of the
15 personnel of record of a licensee of any licensee during the time the discipline is imposed, and any
16 licensee which employs, elects, or associates Gabor Frank Magyari shall be subject to disciplinary
17 action.

18 PRAAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Registrar issue a decision:

21 1. Revoking or suspending Contractor's License No. 373537 issued to Gabor Frank
22 Magyari, Sole Owner, dba Roof - Rite Roofing;

23 2. Prohibiting Gabor Frank Magyari from serving as an officer, director, associate,
24 partner, or qualifying individual of any licensee during the period that discipline is imposed on
25 license No. 373537, issued to Gabor Frank Magyari, Sole Owner, dba Roof - Rite Roofing;

26 3. Revoking or suspending any other license for which Gabor Frank Magyari is furnishing
27 the qualifying experience or appearance;

28 4. Ordering Gabor Frank Magyari, Sole Owner, dba Roof - Rite Roofing to pay the

1 Registrar costs for the investigation and enforcement of the case according to proof at the hearing,
2 pursuant to section 125.3;

3 5. Ordering Gabor Frank Magyari, Sole Owner, dba Roof - Rite Roofing to provide the
4 Registrar with a listing of all contracting projects in progress and the anticipated completion date
5 of each; and

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

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9 DATED: 05/01/18

10 **FILED**
11 **MAY 01 2018**
12 **CSLB DSS**



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



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