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

11 In the Matter of the Accusation Against:

Case No. N2017-327

12 **HENRY MATOZA CONSTRUCTION,**  
13 **INC.,**  
14 **HENRY MATOZA, JR., RMO/CEO/PRES,**  
**ELIJAH DAVID MATOZA, OFFICER**  
15 **204 Emerson Avenue**  
**Modesto, CA 95350**

**A C C U S A T I O N**

16 **Contractor License No. 893804**

17 Respondent.

18 **MATOZA HENRY CONSTRUCTION**  
19 **HENRY MATOZA, JR., SOLE OWNER**  
20 **20555 Deerfield Drive**  
**Sonora, CA 95370**

21 **Contractor License No. 452355**

22 Affiliated Party.  
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1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about April 4, 2007, the Registrar of Contractors issued Contractor License  
7 Number 893804 to Henry Matoza Construction, Inc., Henry Matoza, Jr., RMO/CEO/PRES,  
8 Elijah David Matoza, Officer (Respondent). The Contractor License was in full force and effect  
9 at all times relevant to the charges brought in this Accusation and will expire on April 30, 2019,  
10 unless renewed.

11 3. On or about February 14, 1984, the Registrar of Contractors issued Contractor  
12 License Number 452355 to Matoza Henry Construction, Henry Matoza, Jr., Sole Owner. The  
13 Contractor License was in full force and effect at all times relevant to the charges brought in this  
14 Accusation and will expire on February 29, 2020, unless renewed.

15 **JURISDICTION**

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

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

25 **STATUTORY PROVISIONS**

26 6. Section 7090 of the Code provides, in pertinent part, that the Registrar may suspend  
27 or revoke any license or registration if the licensee or registrant is guilty of or commits any one or  
28 more of the acts or omissions constituting cause for disciplinary action.

7. Section 7109, subdivision (a) of the Code states: "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."

8. Section 7110 of the Code provides, in pertinent part: "Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, . . . constitutes a cause for disciplinary action."

9. Section 7116 of the Code states: "The 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."

10. Section 7117.6 of the Code states: "Acting in the capacity of a contractor in a classification other than that currently held by the licensee constitutes a cause for disciplinary action."

## FACTUAL BACKGROUND

11. On or about November 4, 2015, J.P. and R.P.<sup>1</sup> entered into a contract with Respondent to construct a retaining wall at their residence in Alamo. The contract amount was \$118,000.00. On or about November 4, 2015, J.P. and R.P. paid Respondent a deposit totaling \$30,000.00. J.P. and R.P. also paid Respondent \$9,300.00 on or about December 27, 2015, and \$38,000.00 on or about April 8, 2016, prior to Respondent performing any work on the project.

12. A contractor must have an "A" General Engineering Contractor's license in order to construct the type of retaining wall that Respondent agreed to build for J.P. and R.P. Respondent does not have an "A" General Engineering Contractor's license. Rather, Respondent only has a "B" General Building Contractor's license.

13. A building permit was required to construct the retaining wall at J.P.'s and R.P.'s residence. Respondent did not obtain a building permit in order to construct the retaining wall.

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<sup>1</sup> The names of individuals identified in this Accusation by initials will be disclosed pursuant to a proper discovery request.

14. Respondent did not begin work on the project until on or about April 14, 2016. On that date, Elijah David Matoza, Respondent's officer, began digging into the bottom of a hill located behind the home where the retaining wall was to be constructed. Digging into the bottom of the hill was an improper way of stabilizing the earth in the hill.

15. In or around June 2016, J.P. and R.P. terminated their contract with Respondent. By that point, J.P. and R.P. had paid Respondent a total of \$101,380.00 for the work on the project. Respondent did not complete the retaining wall, and the work Respondent did perform provided little, if any, value to J.P. and R.P. Respondent did not refund J.P. and R.P. any of the money they had paid Respondent.

16. In or around March 2017, J.P. and R.P. hired another contractor to stabilize the hillside, which had begun collapsing, and complete the retaining wall. J.P. and R.P. have paid the contractor \$73,444.99 for that work, which has not yet been completed.

**FIRST CAUSE FOR DISCIPLINE**

**(Departure from Trade Standards)**

17. Respondent's license is subject to disciplinary action under sections 7090 and 7109, subdivision (a) of the Code, in that Respondent departed in material respects from accepted trade standards for good and workmanlike construction. The circumstances of this conduct are set forth above in paragraph 14.

## SECOND CAUSE FOR DISCIPLINE

**(Willful and/or Deliberate Disregard of Building Laws)**

18. Respondent's license is subject to disciplinary action under sections 7090 and 7110 of the Code, in that Respondent willfully and/or deliberately disregarded and violated state and/or local building laws. The circumstances of this conduct are set forth above in paragraphs 11 and 13.

### THIRD CAUSE FOR DISCIPLINE

**(Willful and/or Fraudulent Acts Resulting in Substantial Injury to Another)**

19. Respondent's license is subject to disciplinary action under sections 7090 and 7116 of the Code, in that Respondent committed willful and/or fraudulent acts as a contractor that resulted

1 in another being substantially injured. The circumstances of this conduct are set forth above in  
2 paragraphs 11-16.

#### 3 **FOURTH CAUSE FOR DISCIPLINE**

##### 4 **(Acting Outside of Classification)**

5 20. Respondent's license is subject to disciplinary action under sections 7090 and 7117.6  
6 of the Code, in that Respondent acted in the capacity of a contractor in a classification other than  
7 that held by Respondent. The circumstances of this conduct are set forth above in paragraphs 11,  
8 12, and 14.

#### 9 **OTHER MATTERS**

10 21. Pursuant to sections 7097 and 7098 of the Code, if License Number 893804 issued to  
11 Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any  
12 other license issued in the name of Henry Matoza, Jr. or for which Henry Matoza, Jr. furnished  
13 the qualifying experience and appearance.

14 22. Pursuant to section 7121 of the Code, if discipline is imposed on License Number  
15 893804 issued to Respondent, Henry Matoza, Jr. and Elijah David Matoza shall be prohibited  
16 from serving as an officer, director, associate, partner, manager, or qualifying individual, or  
17 member of the personnel of record of any licensee during the time discipline is imposed, and any  
18 licensee which employs, elects, or associates Henry Matoza, Jr. or Elijah David Matoza shall be  
19 subject to disciplinary action.

20 23. Pursuant to Section 7121.5 of the Code, if discipline is imposed on License Number  
21 893804 issued to Respondent, Henry Matoza, Jr. shall be prohibited from serving as an officer,  
22 director, associate, partner, manager, or qualifying individual of any licensee during the time  
23 discipline is imposed, whether or not he had knowledge of or participated in the acts or omissions  
24 constituting grounds for discipline, and any licensee which employs, elects, or associates Henry  
25 Matoza, Jr. shall be subject to disciplinary action.

26 24. Henry Matoza, Jr., while serving as Respondent's RMO/CEO/PRES, had knowledge  
27 of or participated in the acts or omissions which constitute cause for discipline against  
28 Respondent.

25. Elijah David Matoza, while serving as Respondent's officer, had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent.

26. 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.

27. 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 alleged in this Accusation, and that following the hearing, the Registrar of Contractors issue a decision:

1. Revoking or suspending Contractor License Number 893804 issued to Henry Matoza Construction, Inc., Henry Matoza, Jr., RMO/CEO/PRES, Elijah David Matoza, Officer;

2. Prohibiting Henry Matoza, Jr. and Elijah David Matoza from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on License Number 893804 issued to Henry Matoza Construction, Inc., Henry Matoza, Jr., RMO/CEO/PRES, Elijah David Matoza, Officer;

3. Revoking or suspending any other license for which Henry Matoza, Jr. and/or Elijah David Matoza is furnishing the qualifying experience or appearance;

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1 4. Ordering restitution of all damages according to proof suffered by J.P. and R.P. as a  
2 condition of probation in the event probation is ordered;

3 5. Ordering restitution of all damages suffered by J.P. and R.P. as a result of Henry  
4 Matoza Construction, Inc.'s conduct as a contractor, as a condition of restoration of License  
5 Number 893804 issued to Henry Matoza Construction, Inc., Henry Matoza, Jr.,  
6 RMO/CEO/PRES, Elijah David Matoza, Officer;

7 6. Ordering Henry Matoza Construction, Inc., Henry Matoza, Jr., RMO/CEO/PRES,  
8 Elijah David Matoza, Officer to pay the Registrar of Contractors costs for the investigation and  
9 enforcement of the case according to proof at the hearing pursuant to Business and Professions  
10 Code section 125.3;

11 7. Ordering Henry Matoza Construction, Inc., Henry Matoza, Jr., RMO/CEO/PRES,  
12 Elijah David Matoza, Officer to provide the Registrar with a listing of all contracting projects in  
13 progress and the anticipated completion date of each;

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

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16 DATED:

05/17/18

FILED

MAY 17 2018

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

