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

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| In the Matter of the Accusation Against:<br><br>**TITAN BUILDERS & REMODELING, INC.**<br>4872 Topanga Canyon Blvd, #4<br>Woodland Hills, CA 91364<br>**HERBERT ENRIQUE FLORES, RMO**<br>**MOTI MALKA, CEO/PRES.**<br>**MICKEY GANNOT, CEO**<br>**UDI GANNOT , SECRETARY**<br>**STEPHANE DRAI, UNREGISTERED HOME IMPROVEMENT SALESPERSON**<br><br>Contractor's License No. 1002561, B<br><br>**HERBERT ENRIQUE FLORES,**<br>**DBA SAFE QUAKE CONSTRUCTION**<br>2168 S. Atlantic BL. PMB 291<br>Monterey Park, CA 91754<br><br>Contractor's License No. 571102, B<br><br>Respondents. | Case No. N2018-171<br><br>**A C C U S A T I O N** |

## 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 (Board).

2. On or about April 1, 2015, the Registrar of Contractors (Registrar) issued Contractor's License Number 1002561, classification B (general building contractor) to Titan Builders & Remodeling, Inc. (Respondent Titan). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2021, unless it is renewed.

3. Udi Gannot (Respondent Udi Gannot) is listed as the Secretary of Respondent Titan in the records of the California Secretary of State, as of July 22, 2014. Mickey Gannot (Respondent Mickey Gannot) is listed as Chief Executive Officer of Respondent Titan in the records of the California Secretary of State, as of January 3, 2018. Respondent Titan never informed the Registrar nor sought to add Respondents Udi and Mickey Gannot to the license as required by law.

4. On or about June 19, 1989, the Registrar issued Contractor's License Number 571102, classification B (general building contractor) to Herbert Enrique Flores, dba Safe Quake Construction (Respondent Safequake). 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, 2021, unless it is renewed.

## JURISDICTION

5. This Accusation is brought before the Registrar for the Board under the authority of the following laws. All section references are to the Code unless otherwise indicated.

6. Section 118, subdivision (b) of the Code states:

> 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.

7. 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.

8. 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 a license, by a licensee 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.

9. Section 7121 of the Code states:

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

10. Section 7121.5 of the Code states:

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

**STATUTORY PROVISIONS**

11. Section 7068.1 of the Code states:

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

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

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

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

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

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

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

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

12. Section 7112 of the Code states that "[o]mission or misrepresentation of a material fact by an applicant or a licensee in obtaining, or renewing a license, or in adding a classification to an existing license constitutes a cause for disciplinary action."

13. Section 7114 of the Code states:

"(a) Aiding or abetting an unlicensed person to evade the provisions of this chapter [the Contractors' State License Law] or combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or

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associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter constitutes a cause for disciplinary action.

"(b) A licensee who is found by the registrar to have violated subdivision (a) shall, in accordance with the provisions of this article, be subject to the registrar's authority to order payment of a specified sum to an injured party, including, but not limited to, payment for any injury resulting from the acts of the unlicensed person."

14. 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."

15. Section 7122.5 of the Code states:

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

16. Section 7154 of the Code states:

"(a) A home improvement contractor licensed under this chapter shall notify the registrar in writing, on a form prescribed by the registrar, about the employment of a registered home improvement salesperson, pursuant to the terms of this article. This notification requirement shall include, but not be limited to, the name and registration number of the home improvement salesperson who is employed by the contractor. The form shall be submitted prior to the home improvement salesperson beginning work for the contractor.

"(b) A home improvement contractor shall notify the registrar in writing, on a form prescribed by the registrar, when a registered home improvement salesperson ceases to be employed by the contractor. This notification requirement shall include, but not be limited to, the

name and registration number of the home improvement salesperson who had been employed by the contractor. The form shall be submitted within 90 days after the home improvement salesperson ceases to be employed by the contractor.

"(c) A home improvement contractor who employs a registered home improvement salesperson to sell home improvement contracts, but who fails to report to the registrar pursuant to subdivision (a) or (b), is subject to disciplinary action by the registrar.

"(d) A home improvement contractor who employs a person to sell home improvement contracts while that person is not registered by the registrar as a home improvement salesperson as provided in this article, is subject to disciplinary action by the registrar."

**COST RECOVERY, RESTITUTION AND OTHER AUTHORITY**

17. Section 125.3 of the Code states, in pertinent part:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.
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> (b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
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> . . .

18. Government Code section 11519 states:

> (a) The decision shall become effective 30 days after it is delivered or mailed to respondent unless: a reconsideration is ordered within that time, or the agency itself orders that the decision shall become effective sooner, or a stay of execution is granted.
>
> (b) A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective. The stay of execution provided herein may be accompanied by an express condition that respondent comply with specified terms of probation provided; provided, however, that the terms of probation shall be just as reasonable in light of the findings and decision.
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> (c) If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to the officer after the decision has become effective.
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> (d) As used in subdivision (b), specified terms of probation may include an order of restitution. 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.

(e) The person to which the agency action is directed may not be required to comply with a decision unless the person has been served with the decision in the manner provided in Section 11505 or has actual knowledge of the decision.

(f) A nonparty may not be required to comply with a decision unless the agency has made the decision available for public inspection and copying or the nonparty has actual knowledge of the decision.

(g) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with Article 13 (commencing with Section 11460.10)of Chapter 4.5.

19. Section 143.5, subdivision (b) of the Code states:

Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

20. Section 7095 of the Code states:

The decision 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.

21. 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 in the name of the licensee or for whichthe licensee furnished qualifying experience and appearance under the provisions of Section 7068, may be suspended by the registrar without further notice.

22. 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, 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.

23. Section 7102 of the Code states:

> After suspension of a license upon any of the grounds set forth in this chapter, [the Contractors' License Law] the registrar may reinstate the license upon proof of compliance by the contractor with all provisions of the decision as to reinstatement or, in the absence of a decision or any provisions of reinstatement, in the sound discretion of the registrar.
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> After revocation of a license upon any of the grounds set forth in this chapter, the license shall not be reinstated or reissued and a license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds for revocation, within a minimum period of one year and a maximum period of five years after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.
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> The board shall promulgate regulations covering the criteria to be considered when extending the minimum one-year period. The criteria shall give due consideration to the appropriateness of the extension of time with respect to the following factors:
>
> (a) The gravity of the violation.
>
> (b) The history of previous violations.
>
> (c) Criminal convictions.
>
> When any loss has been reduced to a monetary obligation or debt, however, the satisfaction of the monetary obligation or debt as a prerequisite for the issuance, reissuance, or reinstatement of a license shall not be required to the extent the monetary obligation or debt was discharged in a bankruptcy proceeding. However, any nonmonetary condition not discharged in a bankruptcy proceeding shall be complied with prior to the issuance, the reissuance, or reinstatement of the license.

## FACTUAL BACKGROUND

### (KD Project)

24. On October 15, 2016, Respondent Titan by and through its unregistered salesperson, Drai, entered into a written agreement (Contract) with complainant, KD and her daughter, AD, to build a room addition to KD's home for $150,000.00. AD wanted to add a bedroom and bathroom to the first floor so that her 67-year-old mother would not have to climb stairs to the second floor. Drai negotiated and signed the Contract.

25. Respondent Titan measured the proposed project and had an engineer prepare plans. Titan pulled permits and began construction. Titan Builders poured a new slab for the room addition. Titan ran out of lumber during framing and discovered that the plans for the room

addition actually measured out to 800 square feet, whereas Drai had written 600' (600 square feet) on the contract.

26. Drai admitted to KD that he had made a mistake on the Contract and asked her to pay an additional $38,500.00 to continue work on the room addition. KD had paid a total of $112,950.00 as of November 2016. KD told Drai that Respondent Titan needed to reduce the size of the addition, or finish it for the agreed Contract price. Drai was rude to KD and refused to resolve the issue of Respondent Titan's mistake in calculating the square footage of the addition.

27. KD refused to allow Drai back on the project and filed a complaint with the Board. After the complaint was filed, Respondent Titan agreed to complete the project for the original agreed price and sent a new construction manager, Mickey Gannot, aka "Tony Gianinio" to the project.

28. During the course of the complaint investigation, RMO Flores admitted to the Board's investigator, an investigator with the Board, that he was unaware that Udi Gannot was listed in filings with the Secretary of State as the CEO of Respondent Titan. Flores stated that Udi Gannot had nothing to do with Respondent Titan. Flores stated that Mickey Gannot, aka "Tony Gianinio" did plans and paperwork for the jobs. Flores stated he was not aware that Mickey Gannot, Udi Gannot and Drai were each and all previously listed with the Board as personnel on licenses that were subsequently revoked by the Board. Flores stated that Malka, aka "Matt" had told him that he signed the Contract and not Drai.

## FIRST CAUSE FOR DISCIPLINE

**(Failed to Exercise Direct Supervision and Control Over Contracting Activities)**

29. Respondent Flores is subject to disciplinary action under section 7068.1 in that Respondent Flores failed to exercise direct supervision and control over the contracting activities of Respondent Titan. The circumstances are as alleged in the preceding paragraphs 24 through 28 that are incorporated by this reference.

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**SECOND CAUSE FOR DISCIPLINE**

**(Omitted or Misrepresented Material Fact on a License Application)**

30. Respondents are subject to disciplinary action under section 7112 in that they failed to disclose to the Board that Mickey Gannot and Udi Gannot are officers and directors of Respondent Titan. The circumstances are as alleged in the preceding paragraphs 24 through 28 that are incorporated by this reference.

**THIRD CAUSE FOR DISCIPLINE**

**(Aided and Abetted an Unlicensed Contractor)**

31. Respondents are subject to disciplinary action under section 7114 in that they aided and abetted the unlicensed contractors Mickey Gannot and Udi Gannot to practice contracting. The circumstances are as alleged in the preceding paragraphs 24 through 28 that are incorporated by this reference.

**FOURTH CAUSE FOR DISCIPLINE**

**(Operated with Personnel Not in Accord with that Listed on License)**

32. Respondents are subject to disciplinary action under section 7117(b) in that they operated with personnel not in accord with those required to be listed on the license for Respondent Titan. The circumstances are as alleged in the preceding paragraphs 24 through 28 that are incorporated by this reference.

**FIFTH CAUSE FOR DISCIPLINE**

**(Employed an Unregistered Salesperson)**

33. Respondents are subject to disciplinary action under section 7154(d) in that Respondent Titan employed an unregistered salesperson, Drai. The circumstances are as alleged in the preceding paragraphs 24 through 28 that are incorporated by this reference.

**SIXTH CAUSE FOR DISCIPLINE**

**(Cause for Discipline for Qualifier – Respondent Herbert Enrique Flores)**

34. Pursuant to section 7122.5 of the Code, the causes for discipline established as to Respondent Titan Builders & Remodeling, Inc. constitute cause for discipline against Respondent Herbert Enrique Flores, doing business as Safe Quake Construction, under License Number

571102, regardless of whether Herbert Enrique Flores had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent Titan Builders & Remodeling.

## CAUSES FOR OTHER ACTION

### FIRST CAUSE FOR OTHER ACTION

**(Restrictions on Corporate Qualifier – Respondent Herbert Enrique Flores)**

35. Pursuant to section 7121.5 of the Code, if License Number 1002561, issued to Respondent Titan Builders & Remodeling, Inc. is revoked or suspended, Respondent Herbert Enrique Flores shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of a licensee during the time the discipline is imposed, whether or not he had knowledge of or participated in the acts or omissions constituting grounds for discipline as alleged in the causes for discipline, above, and any licensee which employs, elects, or associates Respondent Herbert Enrique other than as a bona fide nonsupervising employee shall be subject to disciplinary action.

### SECOND CAUSE FOR OTHER ACTION

**(Restrictions on Officer – Respondent Moti Malka)**

36. Pursuant to section 7121 of the Code, if License Number 1002561, issued to Respondent Titan Builders & Remodeling, Inc. is revoked or suspended, Respondent Moti Malka, shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of a licensee in that, while serving as CEO/President of Respondent Titan Builders & Remodeling, Inc., she had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent Titan Builders & Remodeling, Inc. as alleged in the causes for discipline, above.

### THIRD CAUSE FOR OTHER ACTION

**(Restrictions on Officer – Respondent Udi Gannot)**

37. Pursuant to section 7121 of the Code, if License Number 1002561, issued to Respondent Titan Builders & Remodeling, Inc. is revoked or suspended, Respondent Udi Gannot, shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying

individual, or member of the personnel of record of a licensee in that, while serving as CEO of Respondent Titan Builders & Remodeling, Inc., he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent Titan Builders & Remodeling, Inc. as alleged in the causes for discipline, above.

**FOURTH CAUSE FOR OTHER ACTION**

**(Restrictions on Officer – Respondent Mickey Gannot)**

38. Pursuant to section 7121 of the Code, if License Number 1002561, issued to Respondent Titan Builders & Remodeling, Inc. is revoked or suspended, Respondent Mickey Gannot, shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of a licensee in that, while serving as Secretary of Respondent Titan Builders & Remodeling, Inc., he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent Titan Builders & Remodeling, Inc. as alleged in the causes for discipline, above.

**FIFTH CAUSE FOR OTHER ACTION**

**(Restrictions on Officer – Respondent Stephanie Drai)**

39. Pursuant to section 7121 of the Code, if License Number 1002561, issued to Respondent Titan Builders & Remodeling, Inc. is revoked or suspended, Respondent Stephanie Drai, shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of a licensee in that, while serving as Home Improvement Unregistered Salesperson of Respondent Titan Builders & Remodeling, Inc., he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent Titan Builders & Remodeling, Inc. as alleged in the causes for discipline, above.

**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. Ordering the revocation or suspension of Contractor License Number 1004102, issued to Respondent Titan Builders & Remodeling, Inc., pursuant to section 7090;

2. Ordering the revocation or suspension of Contractor License Number 571102, issued to Herbert Enrique Flores, dba Safe Quake Construction, pursuant to section 7090;

4. Ordering restitution of all damages according to proof suffered by KD and/or AD as a condition of probation in the event probation is ordered for Respondent Titan Builders & Remodeling, Inc. and/or Respondent Herbert Enrique Flores, pursuant to Government Code section 11519, subdivision (d);

5. Ordering Respondent Titan Builders & Remodeling, Inc. and Respondent Herbert Enrique Flores to pay the Registrar costs for the investigation and enforcement of the case according to proof at the hearing, pursuant to Code section 125.3;

6. Ordering Respondent Titan Builders & Remodeling, Inc. and Respondent Herbert Enrique Flores to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each, pursuant to Code section 7095;

7. Ordering that Respondent Herbert Enrique Flores be prohibited from serving as an officer, director, associate, partner, or qualifying individual of a licensee pursuant to Code section 7121.5;

8. Ordering that Respondent Moti Malka be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 7121;

9. Ordering that Respondent Udi Gannot be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 7121;

10. Ordering that Respondent Mickey Gannot be prohibited be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 7121;

11. Ordering that Respondent Stephanie Drai be prohibited be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 7121; and

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12. Taking such other and further action deemed proper.

DATED: 12/24/19

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

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