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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: **MILESTONE DESIGN & DEVELOPMENT INC.** 15233 Ventura Blvd., #425 Sherman Oaks, CA 91403 **MAURICE JOSEPH ABIKZER; RMO/CEO/PRES** **JACK JOE TAYLOR;RMO (6/25/15-3/22/16)** **ZACHARY STEPHAN HOLLAND RMO (5/13/16 - 11/1/17)** **ZACHI BIGALEIZN RMO (1/16/18-1/7/19)** **Contractor's License No. 982639. B** **ZACHARY STEPHAN HOLLAND,** **DBA ZACHARY HOLLAND** 3249 Overland Ave. #2 Los Angeles, CA 90034 **Contractor's License No. 791362, B** **JACK JOE TAYLOR,** **DBA J & J TAYLOR GENERAL BUILDING CONTRACTORS** 5328 Brighton Drive Riverside, CA 92504 **Contractor's License No. 767295, B, C-8** Respondents.	Case No. N2018-448 **ACCUSATION**

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. On or about April 11, 2013, the Registrar of Contractors (Registrar) issued Contractor's License Number 982639. classification B (general building contractor) to Milestone Design & Development Inc. (Respondent Milestone). 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 renewed. Maurice Joseph Abikzer (Respondent Abikzer) was the RMO/CEO/PRES as of July 7, 2019 to present. Zachi Bigaleizn (Respondent Bigaleizn) was the RMO from January 16, 2018 to January 7, 2019. Zachary Stephan Holland (Respondent Holland) was the RMO from May 13, 2016 to November 1, 2017. Jack Joe Taylor (Respondent Taylor) was the RMO from June 25, 2015 to March 22, 2016. Adela Noemi Paz was the RMO from April 11, 2013 to January 25, 2015.

3. On or about February 15, 2001, the Registrar issued Contractor's License No. 791362 to Zachary Stephan Holland, doing business as Zachary Holland (Respondent Holland). The Contractor's License is currently under suspension and will expire on January 31, 2020, unless renewed.

4. On or about August 12, 1999, the Registrar issued Contractor's License No. 767295 to Jack Joe Taylor, doing business as J & J Taylor General Building Contractors (Respondent Taylor). The Contractor's License is currently inactive and will expire on August 31, 2021, unless renewed.

PRIOR DISCIPLINE

5. In the Registrar's Disciplinary Order in Accusation no. N 2016-171, effective December 5, 2018, License Number 982639 issued to Respondent Milestone was revoked, but with revocation stayed and four years probation imposed under certain terms and conditions. A true and correct copy of Accusation No. N2016-171 and the Disciplinary Order thereon is

attached hereto as Exhibit A and incorporated by this reference. License Number 982639 is scheduled to be on probation through December 4, 2022.

JURISDICTION

6. 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.

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 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.

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

10. 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 member, officer, director, or associate of any partnership, corporation, 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 member, officer, director, 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, or qualifying individual of a licensee, and the employment, election, or association of this type of person by a licensee in any capacity other than as a non-supervising bona fide employee shall constitute grounds

for disciplinary action.

11. 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

12. 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."

13. Code section 7109 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.

14. Code section 7113 states:

> Failure in a material respect on the part of a licensee to complete any construction project or operation for the price stated in the contract for such construction project or operation or in any modification of such contract constitutes a cause for disciplinary action.

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COST RECOVERY, RESTITUTION AND OTHER AUTHORITY

15. Section 125.3 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.

. . . .

16. Government Code section 11519, subdivision (d), provides, that the Registrar may include an order of restitution as a condition of probation in the event probation is ordered, and if restitution is ordered and paid, the amount paid shall be credited to any subsequent judgment in a civil action.

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

> (b) 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.

18. 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 licensee shall be accepted by the Registrar.

19. Section 7097 of the Code states:

> Notwithstanding the provisions of Sections 7121 and 7122, when any licensee 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 [the Contractors' State License Law] in the name of the licensee or for which the licensee furnished qualifying experience and appearance under the provisions of Section 7068, may be suspended by the registrar without further notice.

20. 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.

21. Section 7102 of the Code states:

After suspension of a license upon any of the grounds set forth in this chapter [the Contractors' State 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.

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.

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 ALLEGATIONS

G.C. PROJECT

22. On or about March 3, 2015, Respondent Milestone by and through Respondent Abikzer entered into a written contract (Contract) with L.C and G.C. (Homeowners) to construct a new custom home (Project), according to plans provided by the Homeowners for $500,000 with a $1,000 deposit. Immediately following the Contract execution, Respondent Milestone and Homeowners discussed site preparation work for the home construction.

23. On or about September 15, 2016, with the grading plans in hand, a Contract addendum (Addendum) was approved increasing the scope of work,. including the grading, installation of utilities, driveway, and soil extraction with a $100,000 retainer fee (Retainer). The addendum was not a fixed price. Some of the items approved, including the grading and soil extraction were on a cost plus basis. Other items, such as the utilities, drainage, and driveway did

not have a cost allocated to them. As such, a total contract price was undetermined. Work commenced on or about the end of November 2017. Work ceased in or about early May 2018, when the parties_ mutually agreed to terminate the contract, with the grading yet unfinished.

24. The Homeowners took over the Project as owner-builder. They discovered that some of the work performed by Respondent was either substandard or that it was not performed according to the plans. By their own admission, Respondents Taylor and Holland did not have knowledge or participation in the Project when the Contract and Addendum were negotiated and executed and/or the work performed on the Project.

25. When the Contract (including Addendum) was terminated by mutual agreement, Respondent Milestone agreed to refund the portion of the Retainer not used on the Project, which Respondent Milestone accounted to be $45,661.35 as the unused balance. However, instead of the refund, Respondent Milestone filed a civil suit (Civil Suit) against the Homeowners in Superior Court, and the Homeowners followed with filing a cross-complaint against Respondent. The Civil Suit is pending and any financial injury caused by Respondent Milestone to the Homeowners will be addressed in the Civil Suit.

FIRST CAUSE FOR DISCIPLINE

(Departure from Accepted Trade Standards)

26. Respondent Milestone is subject to disciplinary action under section 7109, subdivision (a), in that on the Project, Respondent Milestone willfully departed from accepted trade standards for good and workmanlike construction, as follows:

a. Respondent used a garden hose to moisten the dirt, which is inadequate water for dust control and to keep the soil moist to compact.

b. Respondent failed to call for grading inspections.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 23 through 26, as though set forth fully.

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SECOND CAUSE FOR DISCIPLINE

(Departure from Plans)

27. Respondent Milestone is subject to disciplinary action under section 7109, subdivision (b), in that on the Project, Respondent willfully departed from or disregarded plans or specifications in a material respect that was 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, as follows:

a. Respondent Milestone failed to cut the South yard according to the grading plan resulting with an overcut that led to the requirement of additional work, including a new keyway, subdrain, and a certified compact fill.

b. Respondent cut the Westerly keyway leaning away from the mountain, and it was cut only 5 FT wide instead of 12 FT wide, according to the grading plan.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 20, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Failure to Exercise Direct Supervision and Control over Licensed Activities of Respondent)

28. Respondents Taylor and/or Holland are subject to disciplinary action under section 7068.1 for failure to exercise direct supervision and control over the contracting activities of Respondent. The circumstances are as alleged in the preceding paragraphs 23 through 26.

CAUSES FOR OTHER ACTION

FIRST CAUSE FOR OTHER ACTION

(Restrictions on Corporate Qualifier – Respondents Abizker)

29. Pursuant to section 7121.5 of the Code, if license number 982639, B issued to Respondent Milestone is revoked or suspended, Respondent Abizker is subject to prohibition 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 Abizker other than as a bona fide nonsupervising employee shall be subject to disciplinary action.

SECOND CAUSE FOR OTHER ACTION

(Restrictions on Corporate Qualifier – Respondent Bigaleizn)

30. Pursuant to section 7121.5 of the Code, if license number 982639, B issued to Respondent Milestone is revoked or suspended, Respondent Bigaleizn is subject to prohibition 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 Bigaleizn other than as a bona fide nonsupervising employee shall be subject to disciplinary action.

THIRD CAUSE FOR OTHER ACTION

(Restrictions on Corporate Qualifier – Respondent Taylor)

31. Pursuant to section 7121.5 of the Code, if license number 982639, B issued to Respondent Milestone is revoked or suspended, Respondent Taylor is subject to prohibition 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 Taylor other than as a bona fide nonsupervising employee shall be subject to disciplinary action.

FOURTH CAUSE FOR OTHER ACTION

(Restrictions on Corporate Qualifier – Respondent Holland)

32. Pursuant to section 7121.5 of the Code, if license number 982639, B issued to Respondent Milestone is revoked or suspended, Respondent Holland is subject to prohibition 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 Holland Bigaleizn other than as a bona fide nonsupervising employee 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 of Contractors issue a decision:

1. Ordering the revocation or suspension of Contractor License Number 982639, B issued to Respondent Milestone, doing business as Milestone Design & Development, Inc., pursuant to section 7090;

2. Ordering Respondent Milestone, doing business as Milestone Design & Development, Inc., Respondent Taylor and Respondent Holland to pay the Registrar his costs for the investigation and enforcement of the case according to proof at the hearing, pursuant to Code section 125.3;

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

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

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

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

7. Revoking or suspending Contractor's License No. 791362 issued to Zachary Stephan Holland, doing business as Zachary Holland pursuant to section 7090;

9. Revoking or suspending Contractor's License No. 767295 issued to Jack Joe Taylor, doing business as J & J Taylor General Building Contractors pursuant to section 7090;

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10. Taking such other and further action deemed proper.

DATED: 10/4/19

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

FILED
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