ROB BONTA
Attorney General of California
CHAR SACHSON
Supervising Deputy Attorney General
GREGORY TUSS
Deputy Attorney General
State Bar No. 200659
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3435
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **N C ELECTRIC AND SOLAR INC.** **dba N C ELECTRIC SOLAR** **Roberto Naja Casillas, RMO** **729 E 18th St** **Antioch, CA 94509** **Contractor's License No. 1017350, C-10,** Respondents.	Case No. N2021-209 **ACCUSATION**

1. Thomas Jager (Complainant) brings this accusation solely in his official capacity as the Supervising Special Investigator I of the Contractors State License Board (Board), Department of Consumer Affairs.

2. On August 17, 2016, the Registrar of Contractors (Registrar) issued Contractor's License Number 1017350, Classification C-10 (Electrical) to N C Electric and Solar Inc., dba N C Electric Solar (Respondent N C Electric Solar). This contractor's license was in full force and effect at all times relevant to the charges brought in this accusation and will expire on August 31, 2022, unless renewed. At all times referenced in this accusation, Roberto Naja Casillas (Respondent Casillas) was the responsible managing officer (RMO).

PERSONNEL OF RECORD

3. "Members of the personnel of record" of an entity that holds a contractor's license is defined in Business and Professions Code section 7025 and "means every person listed in the records of the registrar as then associated with a licensee." Respondent N C Electric Solar is a corporation organized under the laws of California and has listed Bernardo Naja Casillas as the Chief Executive Officer and President of Respondent N C Electric Solar. Bernardo Naja Casillas is of record with the Board and not named as a respondent in this accusation.

JURISDICTION

4. This accusation is brought before the Registrar for the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 118 states in part:

> (b) 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.

6. Section 7076.5 states in part:

> (h) The inactive status of a license shall not bar any disciplinary action by the board against a licensee for any of the causes stated in this chapter.

7. Section 7090 provides in 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 states:

> The expiration, cancellation, forfeiture, revocation, 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 7121.5 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

10. Section 7122.5 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.

STATUTORY PROVISIONS

11. Section 490 states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

///

12. Section 493 states in part:

(a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b)(1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

13. Section 7123 states:

A conviction of a crime substantially related to the qualifications, functions and duties of a contractor constitutes a cause for disciplinary action. The record of the conviction shall be conclusive evidence thereof.

14. Section 7124 states in part:

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

15. California Code of Regulations, title 16, section 868, states in part:

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141, Division 1.5 (commencing with Section 475), or Sections 7073 or 7123 of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a licensee or registrant (under Division 3, Chapter 9 of the Code) if it evidences present or potential unfitness of an applicant, licensee, or registrant to perform the functions authorized by the license or registration in a manner consistent with the public health, safety, and welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board or Registrar shall consider the following criteria:

(1) The nature and gravity of the offense,

(2) The number of years elapsed since the date of the offense, and

(3) The nature and duties of a contractor or home improvement salesperson.

(c) For purposes of subdivision (a), substantially-related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

. . .

(4) Crimes, professional misconduct, or acts involving physical violence against persons.

(5) Crimes, professional misconduct, or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

16. California Code of Regulations, title 16, section 869, states in part:

(a) When considering the denial, suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the Code on the ground that the individual has been convicted of a crime, the Board or Registrar shall consider whether the applicant, licensee, or registrant made a showing of rehabilitation if the applicant, licensee, or registrant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board or Registrar shall consider the following criteria:

(1) The nature and gravity of the crime(s);

(2) The length(s) of the applicable parole or probation period(s);

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified;

(4) The terms or conditions of parole or probation, and the extent to which they bear on the applicant's rehabilitation; and

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subsection (a) is inapplicable, or the Board or Registrar determines that an applicant, licensee, or registrant did not make a showing of rehabilitation based on the criteria in subsection (a), the Board or Registrar shall apply the following criteria in evaluating an applicant's, licensee's, or registrant's rehabilitation:

(1) The Board or Registrar shall find that an applicant, licensee, or registrant made a showing of rehabilitation if, after considering the following criteria and the provisions of subsection (b)(2), the Board or Registrar finds that the individual is rehabilitated:

. . .

(C) Discipline Based on Felony Convictions
When considering the suspension or revocation of a license or registration, the Board or Registrar may consider a licensee or registrant rehabilitated if the licensee or registrant was convicted of a felony that is substantially related to the

qualifications, functions, or duties of a licensee or registrant as defined in Section 868, and seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, acts, or omissions that also could be grounds for suspension or revocation.

. . .

(2) The amount of time needed to demonstrate rehabilitation under subsection (b)(1) may be increased or decreased by taking into account the following:

(A) The nature and gravity of the crime(s), professional misconduct, act(s), or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(B) Evidence of any crime(s), professional misconduct, act(s), or omission(s) committed subsequent to the crime(s), professional misconduct, act(s), or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation.

(C) The time that has elapsed since commission of the crime(s), professional misconduct, act(s), or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(D) The extent to which the applicant, licensee, or registrant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant, licensee, or registrant.

(E) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the time of commission of the professional misconduct, act(s), or omission(s).

(F) Documents or testimony from credible individuals who have personal knowledge of the applicant's, licensee's, or registrant's life and activities subsequent to the time of commission of the crime(s), professional misconduct, act(s), or omission(s) who can attest to the applicant's, licensee's, or registrant's present fitness for licensure or registration.

(G) The acts underlying the conviction have been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(H) Other relevant evidence, if any, of rehabilitation submitted by the applicant, licensee, or registrant. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion or diversion program if the crime(s), professional misconduct, act(s), or omission(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s), professional misconduct, act(s), or omission(s) demonstrated the applicant's, licensee's, or registrant's inability to control one's temper.

COST RECOVERY, RESTITUTION, AND OTHER AUTHORITY

17. Section 125.3 states in 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 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

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, however, that the terms of probation shall be just and reasonable in the light of the findings and decision.

(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.

(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 states in part:

(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.

20. Section 7095 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 his 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 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 which the licensee furnished qualifying experience and appearance under the provisions of Section 7068, may be suspended by the registrar without further notice.

22. Section 7098 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 states:

After suspension of a license upon any of the grounds set forth in this chapter, 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.

CAUSE FOR DISCIPLINE

(July 14, 2021, Conviction for DUI with Injury and a Prior DUI)

24. Respondents N C Electric Solar and Casillas have subjected their license to disciplinary action under sections 490, subdivision (a), and 7123 for being convicted of a crime that is substantially related to the qualifications, duties, and functions of a licensed contractor. On July 14, 2021, in a criminal proceeding entitled *People of the State of California v. Roberto Naja Casillas*, Contra Costa Superior Court Case No. 04-199828-5, Respondent Casillas was convicted by his plea of no contest to driving with a 0.08 percent blood alcohol content causing injury within 10 years of another driving under the influence offence (Veh. Code, §§ 23153, subd. (b), 23560), a felony. He admitted to being convicted on October 15, 2010, of driving under the influence (Veh. Code, § 23152, subd. (a)).

25. Respondent Casillas was sentenced to five years' formal probation and 270 days' incarceration. His driver's license was revoked for three years. He also was ordered to complete a drinking driver's program and a residential treatment program, use an ignition interlock device for five years, and pay restitution.

26. The facts that led to the conviction are that on February 21, 2020, Respondent Casillas rear-ended a vehicle which in turn was pushed into a second vehicle. The driver of the first vehicle was taken to the hospital by ambulance for facial and head injuries; the driver of the second vehicle had head injuries and complained of neck and back pain. Respondent Casillas refused to submit to a chemical test to measure his blood alcohol content. A forced blood draw

taken three hours after the incident measured his blood alcohol content to be 0.10 percent.

CAUSES FOR OTHER ACTION

(Restrictions on Qualifier – Respondent Casillas)

27. Under section 7121.5, if License No. 1015144 issued to Respondent N C Electric Solar is revoked or suspended, Respondent Casillas 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 Casillas 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 alleged in this accusation, and that following the hearing, the Registrar issues a decision:

1. Ordering the revocation or suspension under section 7090 of Contractor's License No. 1017350 issued to Respondent N C Electric Solar;

2. Ordering Respondent N C Electric Solar under section 125.3 to pay the Registrar costs for the investigation and enforcement of the case according to proof at the hearing;

3. Ordering Respondent N C Electric Solar under section 7095 to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;

4. Ordering that Respondent Casillas is prohibited from serving as an officer, director, associate, partner, manager or qualifying individual of a licensee under section 7121.5; and

///

8. Taking such other and further action deemed proper.

DATED: 12-28-2021

THOMAS JAGER
Supervising Special Investigator I
Contractors State License Board
Department of Consumer Affairs
State of California
Complainant

SF2021402512
43018065.docx