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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: **S F GARAGE COMPANY INC.** **JOHN CLIFFORD POLLARD,** **RMO/CEO/PRES** P O Box 14039 San Francisco, CA 94114 38 Gough Street San Francisco CA 94103 Contractor's License No. 684863, B, C-8, C-10, C-36, A, C-4, C-16 Respondents.	Case No. N2021-312 **ACCUSATION**

PARTIES

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 or about March 4, 1994, the Registrar of Contractors (Registrar) issued Contractor's License Number 684863, in classification B (General Building), C-8 (Concrete), C-10 (Electrical), C-36 (Plumbing), A (General Engineering), C-4 (Boiler, Hot Water Heating and

Steam Fitting), C-16 (Fire Protection) to S F Garage Company Inc. (Respondent S F Garage Company Inc.) The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2023, unless renewed. At all times referenced herein, John Clifford Pollard (Respondent Pollard) was the responsible managing officer (RMO), CEO and President.

JURISDICTION

3. This Accusation is brought before the Registrar under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. 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.

5. Section 7076.5, subdivision (h), of the Code states:

> 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.

6. 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.

7. Section 7106.5 of the Code 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.

8. 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

9. Section 7107 of the Code states:

Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause for disciplinary action.

10. Section 7109 of the Code 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.

11. Section 7113 of the Code 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.

COST RECOVERY, RESTITUTION AND OTHER AUTHORITY

12. 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.

(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.

. . .

13. Section 11519 of the Government Code 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.

(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.

14. 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.

15. 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 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 licensee shall be accepted by the registrar.

16. 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.

17. 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.

18. 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.

LOMBARD STREET PROJECT

19. On or about March 15, 2016, SS of Greenwich Properties LLC entered into a written contract with Respondent SF Garage Company Inc. to perform a structural upgrade and remodel SS's property located on Lombard Street in San Francisco, CA (Lombard Street Project) for

$352,250.00. A series of change orders added $113,720.00 to the project, bringing the new project total to $465,970.00.

20. SS paid Respondent SF Garage Company Inc. $422,450.70 for the Lombard Street Project.

21. Respondent SF Garage Company Inc. abandoned the Lombard Street Project prior to completion of the work, leaving much of the work not performed and/or incomplete, as more fully set forth below in paragraph 24.

22. A Board industry expert inspected Respondent SF Garage Company Inc.'s work and found that the work departed from accepted trade standards and deviated from plans and specifications, as more fully set forth below in paragraphs 24-25. SS will be forced to expend additional funds over the contract price to complete and repair Respondent SF Garage Company Inc.'s work.

FIRST CAUSE FOR DISCIPLINE

(Abandonment)

23. Respondent S F Garage Company Inc. is subject to disciplinary action under Code section 7107, in that Respondent S F Garage Company Inc. abandoned the Lombard Street Project without legal excuse, as set forth above.

SECOND CAUSE FOR DISCIPLINE

(Departure from Accepted Trade Standards)

24. Respondent S F Garage Company Inc. is subject to disciplinary action under Code section 7109, subdivision (a), in that Respondent S F Garage Company Inc. willfully departed from accepted trade standards for good and workmanlike construction on the Lombard Street Project in the following material respects:

Incomplete or not performed work

a. Egress windows not framed in both units;

b. Door from walkway to front unit not framed, missing landing;

c. Closet is missing in front unit;

d. Radiant heat in slab for both units not fully installed;

e. Walkway framing is incomplete with discontinuous floor joists and dry rot left in place;

f. Skylights not framed or installed;

g. Ceiling is not built;

h. Rated door to sidewalk not installed;

i. Moment frame not installed;

j. Front wall not framed;

Work deviating from industry workmanship standards

k. Masonry bases of two fireplaces were removed without adequate support;

l. Rear Stairs beam support was cut away and replaced with a temporary post with a house jack.

THIRD CAUSE FOR DISCIPLINE

(Deviation from Plans and Specifications)

25. Respondent S F Garage Company Inc. is subject to disciplinary action under Code section 7109, subdivision (b), in that Respondent S F Garage Company Inc. willfully departed from and/or disregarded the plans and/or specifications on the Lombard Street Project, without SS's consent, in the following material respects:

a. Door to walkway to rear unit is in the wrong location;

b. Kitchen in rear unit is roughed into the wrong location;

c. Midline/steel beam is in the wrong location, wood and steel beams are not connected.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Complete Project for Contract Price)

26. Respondent S F Garage Company Inc. is subject to disciplinary action under Code section 7113, in that Respondent S F Garage Company Inc. failed in a material respect to complete the Lombard Street Project for the contract price, and the property owner will be required to spend a substantial sum in excess of the contract price to complete the project in accordance with the project, as set forth above.

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CAUSE FOR OTHER ACTION

(Restrictions on Qualifier – Respondent Pollard)

27. Pursuant to Code section 7121.5, if license number 684863, issued to Respondent S F Garage Company Inc. is revoked or suspended, Respondent Pollard 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 Pollard 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 issue a decision:

1. Ordering the revocation or suspension of Contractor's License Number 684863 issued to S F Garage Company Inc. pursuant to Code section 7090;

2. Ordering restitution of all damages according to proof suffered by SS, as a condition of probation in the event probation is ordered for Respondent S F Garage Company Inc. pursuant to Government Code section 11519, subdivision (d);

3. Ordering Respondent S F Garage Company Inc. 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;

4. Ordering Respondent S F Garage Company Inc. 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;

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

6. Taking such other and further action deemed proper.

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DATED: 5-20-22

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

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