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7

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

13 In the Matter of the Accusation Against:

Case No. N2021-346

14 **AMERICAN PACIFIC BUILDERS, INC.**
15 **STEVEN WILLIAM MATT BATES,**
16 **RMO/CEO/PRES**
P.O. Box 11254
Santa Rosa, CA 95406

ACCUSATION

17 Contractor's License No. 1017194, B

18 Respondents.
19

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21
22 **PARTIES**

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

26 2. On or about August 12, 2016, the Registrar of Contractors (Registrar) issued
27 Contractor's License Number 1017194 in Classification B (General Contracting) to American
28 Pacific Builders, Inc. (Respondent American Pacific). The Contractor's License was in full force

1 and effect at all times relevant to the charges brought herein and will expire on August 31, 2022,
2 unless renewed. At all times referenced herein, Steven William Matt Bates (Respondent Bates)
3 was the responsible managing officer (RMO), chief executive officer (CEO) and president
4 (PRES).

5 JURISDICTION

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

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

10 The suspension, expiration, or forfeiture by operation of law of a license issued
11 by a board in the department, or its suspension, forfeiture, or cancellation by order of
12 the board or by order of a court of law, or its surrender without the written consent of
13 the board, shall not, during any period in which it may be renewed, restored, reissued,
14 or reinstated, deprive the board of its authority to institute or continue a disciplinary
15 proceeding against the licensee upon any ground provided by law or to enter an order
16 suspending or revoking the license or otherwise taking disciplinary action against the
17 licensee on any such ground.

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

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

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

24 7. Section 7106.5 of the Code states:

25 The expiration, cancellation, forfeiture, revocation, or suspension of a license
26 by operation of law or by order or decision of the registrar or a court of law, or the
27 voluntary surrender of a license by a licensee, shall not deprive the registrar of
28 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 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

1 sufficient satisfactory experience for a supplemental classification for an existing
2 license, or whose license has been revoked, or whose license is under suspension, or
3 who has failed to renew a license while it was under suspension, and while acting as a
4 partner, officer, director, manager, or associate had knowledge of or participated in
5 any of the prohibited acts for which the license was denied, suspended, or revoked,
6 shall be prohibited from serving as an officer, director, associate, partner, manager,
7 qualifying individual, or member of the personnel of record of a licensee, and the
8 employment, election, or association of this type of person by a licensee in any
9 capacity other than as a nonsupervising bona fide employee shall constitute grounds
10 for disciplinary action.

11 9. Section 7121.5 of the Code states:

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

19 STATUTORY PROVISIONS

20 10. Section 7107 of the Code states:

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

24 11. Section 7108.5 of the Code states:

25 (a) A prime contractor or subcontractor shall pay to any subcontractor, not later
26 than seven days after receipt of each progress payment, unless otherwise agreed to in
27 writing, the respective amounts allowed the contractor on account of the work
28 performed by the subcontractors, to the extent of each subcontractor's interest therein.
In the event that there is a good faith dispute over all or any portion of the amount due
on a progress payment from the prime contractor or subcontractor to a subcontractor,
the prime contractor or subcontractor may withhold no more than 150 percent of the
disputed amount.

(b) Any violation of this section shall constitute a cause for disciplinary action
and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent
of the amount due per month for every month that payment is not made.

(c) In any action for the collection of funds wrongfully withheld, the prevailing
party shall be entitled to his or her attorney's fees and costs.

(d) The sanctions authorized under this section shall be separate from, and in
addition to, all other remedies, either civil, administrative, or criminal.

(e) This section applies to all private works of improvement and to all public
works of improvement, except where Section 10262 of the Public Contract Code
applies.

1 12. Section 7109 of the Code states:

2 (a) A willful departure in any material respect from accepted trade standards for
3 good and workmanlike construction constitutes a cause for disciplinary action, unless
4 the departure was in accordance with plans and specifications prepared by or under
5 the direct supervision of an architect.

6 (b) A willful departure from or disregard of plans or specifications in any
7 material respect, which is prejudicial to another, without the consent of the owner or
8 his or her duly authorized representative and without the consent of the person
9 entitled to have the particular construction project or operation completed in
10 accordance with such plans or specifications, constitutes a cause for disciplinary
11 action.

12 13. Section 7110 of the Code states:

13 Willful or deliberate disregard and violation of the building laws of the state, or
14 of any political subdivision thereof, or of Section 8550 or 8556 of this code, or of
15 Sections 1689.5 to 1689.15, inclusive, of the Civil Code, or of the safety laws or labor
16 laws or compensation insurance laws or Unemployment Insurance Code of the state,
17 or of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing
18 with Section 4100) of Part 1 of Division 2 of the Public Contract Code), or violation
19 by any licensee of any provision of the Health and Safety Code or Water Code,
20 relating to the digging, boring, or drilling of water wells, or Article 2 (commencing
21 with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code,
22 constitutes a cause for disciplinary action.

23 14. Section 7113 of the Code states:

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

28 15. Section 7120 of the Code states:

Willful or deliberate failure by any licensee or agent or officer thereof, to pay
any moneys, when due for any materials or services rendered in connection with his
operations as a contractor, when he has the capacity to pay or when he has received
sufficient funds therefor as payment for the particular construction work, project, or
operation for which the services or materials were rendered or purchased constitutes a
cause for disciplinary action, as does the false denial of any such amount due or the
validity of the claim thereof with intent to secure for himself, his employer, or other
person, any discount upon such indebtedness or with intent to hinder, delay, or
defraud the person to whom such indebtedness is due.

16. Section 7164 states:

...

(b) The writing shall contain the following:

(1) The name, address, and license number of the contractor.

(2) The approximate dates when the work will begin and be substantially

1 completed.

2 (3) A legal description of the location where the work will be done.

3 (4) A statement with the heading "Mechanics Lien Warning" as follows:

4 "MECHANICS LIEN WARNING:

5 Anyone who helps improve your property, but who is not paid, may record
6 what is called a mechanics lien on your property. A mechanics lien is a claim, like a
7 mortgage or home equity loan, made against your property and recorded with the
8 county recorder.

9 Even if you pay your contractor in full, unpaid subcontractors, suppliers, and
10 laborers who helped to improve your property may record mechanics liens and sue
11 you in court to foreclose the lien. If a court finds the lien is valid, you could be forced
12 to pay twice or have a court officer sell your home to pay the lien. Liens can also
13 affect your credit.

14 To preserve their right to record a lien, each subcontractor and material supplier
15 must provide you with a document called a 'Preliminary Notice.' This notice is not a
16 lien. The purpose of the notice is to let you know that the person who sends you the
17 notice has the right to record a lien on your property if he or she is not paid.

18 **BE CAREFUL.** The Preliminary Notice can be sent up to 20 days after the
19 subcontractor starts work or the supplier provides material. This can be a big problem
20 if you pay your contractor before you have received the Preliminary Notices.

21 You will not get Preliminary Notices from your prime contractor or other
22 persons you contract with directly or from laborers who work on your project. The
23 law assumes that you already know they are improving your property.

24 **PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by
25 getting a list from your contractor of all the subcontractors and material suppliers that
26 work on your project. Find out from your contractor when these subcontractors
27 started work and when these suppliers delivered goods or materials. Then wait 20
28 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a
joint check. When your contractor tells you it is time to pay for the work of a
subcontractor or supplier who has provided you with a Preliminary Notice, write a
joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at www.cslb.ca.gov or
call CSLB at 800-321-CSLB (2752).

**REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN
PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or face
the forced sale of your home to pay what you owe."

...

COST RECOVERY, RESTITUTION AND OTHER AUTHORITY

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

1 (a) Except as otherwise provided by law, in any order issued in resolution of a
2 disciplinary proceeding before any board within the department or before the
3 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
4 administrative law judge may direct a licentiate found to have committed a violation
5 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
6 the investigation and enforcement of the case.

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

9 ...

10 18. Section 11519 of the Government Code states:

11 (a) The decision shall become effective 30 days after it is delivered or mailed to
12 respondent unless: a reconsideration is ordered within that time, or the agency itself
13 orders that the decision shall become effective sooner, or a stay of execution is
14 granted.

15 (b) A stay of execution may be included in the decision or if not included
16 therein may be granted by the agency at any time before the decision becomes
17 effective. The stay of execution provided herein may be accompanied by an express
18 condition that respondent comply with specified terms of probation provided;
19 provided, however, that the terms of probation shall be just as reasonable in light of
20 the findings and decision.

21 (c) If respondent was required to register with any public officer, a notification
22 of any suspension or revocation shall be sent to the officer after the decision has
23 become effective.

24 (d) As used in subdivision (b), specified terms of probation may include an
25 order of restitution. Where restitution is ordered and paid pursuant to the provisions
26 of this subdivision, the amount paid shall be credited to any subsequent judgment in a
27 civil action.

28 (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.

1 20. Section 7095 of the Code states:

2 The decision may:

3 (a) Provide for the immediate complete suspension by the licensee of all
4 operations as a contractor during the period fixed by the decision.

5 (b) Permit the licensee to complete any or all contracts shown by competent
6 evidence taken at the hearing to be then uncompleted.

7 (c) Impose upon the licensee compliance with such specific conditions as may
8 be just in connection with his operations as a contractor disclosed at the hearing and
9 may further provide that until such conditions are complied with no application for
10 restoration of the suspended or revoked licensee shall be accepted by the registrar.

11 21. Section 7097 of the Code states:

12 Notwithstanding the provisions of Sections 7121 and 7122, when any licensee
13 has been suspended by a decision of the registrar pursuant to an accusation or
14 pursuant to subdivision (b) of Section 7071.17, Section 7085.6 or 7090.1, any
15 additional license issued under this chapter [the Contractors' State License Law] in
16 the name of the licensee or for which the licensee furnished qualifying experience and
17 appearance under the provisions of Section 7068, may be suspended by the registrar
18 without further notice.

19 22. Section 7098 of the Code states:

20 Notwithstanding the provisions of Sections 7121 and 7122, when any license
21 has been revoked under the provisions of this chapter [the Contractors' State License
22 Law], any additional license issued under this chapter in the name of the licensee or
23 for which the licensee furnished qualifying experience and appearance under the
24 provisions of Section 7068, may be revoked by the registrar without further notice.

25 23. Section 7102 of the Code states:

26 After suspension of a license upon any of the grounds set forth in this chapter
27 [the Contractors' State License Law], the registrar may reinstate the license upon
28 proof of compliance by the contractor with all provisions of the decision as to
29 reinstatement or, in the absence of a decision or any provisions of reinstatement, in
30 the sound discretion of the registrar.

31 After revocation of a license upon any of the grounds set forth in this chapter,
32 the license shall not be reinstated or reissued and a license shall not be issued to any
33 member of the personnel of the revoked licensee found to have had knowledge of or
34 participated in the acts or omissions constituting grounds for revocation, within a
35 minimum period of one year and a maximum period of five years after the final
36 decision of revocation and then only on proper showing that all loss caused by the act
37 or omission for which the license was revoked has been fully satisfied and that all
38 conditions imposed by the decision of revocation have been complied with.

39 The board shall promulgate regulations covering the criteria to be considered
40 when extending the minimum one-year period. The criteria shall give due
41 consideration to the appropriateness of the extension of time with respect to the
42 following factors:

- 1 (a) The gravity of the violation.
2 (b) The history of previous violations.
3 (c) Criminal convictions.

4 When any loss has been reduced to a monetary obligation or debt, however, the
5 satisfaction of the monetary obligation or debt as a prerequisite for the issuance,
6 reissuance, or reinstatement of a license shall not be required to the extent the
7 monetary obligation or debt was discharged in a bankruptcy proceeding. However,
8 any nonmonetary condition not discharged in a bankruptcy proceeding shall be
9 complied with prior to the issuance, the reissuance, or reinstatement of the license.

7 **M.R. PROJECT**

8 24. On or about September 14, 2018, Respondent American Pacific entered into a
9 contract with M.R. to rebuild her home following the Tubbs wildfire in Santa Rosa, California
10 (M.R. project) for \$781,156.00.

11 25. On or about October 24, 2018, Respondent American Pacific began work on the M.R.
12 project. In or about February 2020, Respondent American Pacific and M.R. agreed to three (3)
13 change orders for the construction of a shed for \$14,850.00, additional electric work for \$350.00,
14 and upgrading to automatic switches in the bathroom for \$169.00. The total contract price
15 became \$796,525.00.

16 26. On or about October 18, 2021, Respondent American Pacific ceased work on the
17 M.R. project. Respondent American Pacific failed to return to the project to complete punch list
18 items identified by M.R. Respondent American Pacific received \$795,151.00 from M.R. for
19 work on the project.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Departure from Accepted Trade Standards)**

22 27. Respondent American Pacific has subjected its license to disciplinary action under
23 Code section 7109(a), in that on the M.R. project, Respondent American Pacific willfully
24 departed from accepted trade standards for good and workmanlike construction in the following
25 material respects:

26 a. Failed to properly install fittings where oil and water pipes were connected to the
27 HVAC system. As a result oil leaked into the HVAC system's drain pan and water leaked on the
28 framing in the attic.

- 1 b. Failed to properly install the strike plate for the master bedroom door as it was too
2 close to the door. As a result, the door would not shut properly.
- 3 c. Failed to properly install the bathtub with sufficient shimming/shoring. As a result,
4 the bathtub squeaked when stepped into.
- 5 d. Failed to properly install the shower head in the bathroom in that there was a gap of
6 six inches from the top of the impermeable shower wall to where the supply stem for the shower
7 head exited the wall, which was not waterproofed. As a result, the sheet rock in this area was
8 water damaged.
- 9 e. Failed to properly install the sliding bedroom closet doors in that they were out of
10 square in two of the bedrooms.
- 11 f. Failed to properly install the French doors in the dining room. As a result, the left
12 panel of the door did not close tightly allowing possible water intrusion.
- 13 g. Utilized screws that were too long to secure the electrical cable on the interior of the
14 kitchen island for the GFI outlet. As a result, the screws protruded from the exterior of the
15 cabinet wall.
- 16 h. Failed to properly install the flooring in that flooring boards were not pushed together
17 tightly during installation in the kitchen and adjacent hallway. As a result, there were small gaps
18 visible between the boards.
- 19 i. Failed to properly install a kitchen cabinet drawer in that there was a gap on the right
20 side of the drawer when closed.
- 21 j. Failed to properly paint some areas of the interior of the home in that there was not an
22 adequate amount of paint applied. In addition, minor cracks developed in six spots in drywall
23 corners that should have been caulked.
- 24 k. Failed to properly install the fireplace blower in that loud noises emanated when in
25 use.
- 26 l. Failed to properly install the fireplace stone façade by ensuring a tight fit of the stone,
27 in that two areas had gaps where the tile met the mantle that required filling.

28 ///

1 m. Failed to properly install the insulating shoe on the bottom of the front door which
2 allowed air to enter the home.

3 n. Failed to properly install HVAC ducting in the upstairs closet in that it was visible
4 and not sealed, which could result in air leaking from the garage into the living space.

5 o. Failed to properly install the exterior backyard concrete stairs in that they were
6 constructed with a deviation in riser height of $\frac{3}{4}$ inch which exceeds the allowable deviation set
7 forth in the California Residential Code section R311.7.5.1.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Deviations from Plans and Specifications)**

10 28. Respondent American Pacific has subjected its contractor's license to
11 disciplinary action under Code section 7109(b), in that on the M.R. project, Respondent American
12 Pacific deviated from plans and specifications as follows:

13 a. Failed to construct garage stairs leading from the interior of the home down to the
14 interior of the garage out of concrete as set forth in Keynote number thirteen (13) on sheet
15 number A1.7 of the floor plans.

16 b. Failed to install the Forced Air Unit (FAU) in the location outlined on the plans and
17 specifications, Keynote number three (3) on sheet number A1.7 of the floor plans.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Willful and Deliberate Disregard for Building Laws)**

20 29. Respondent American Pacific has subjected its contractor's license to disciplinary
21 action under Code section 7110, in that on the M.R. project, Respondent American Pacific
22 constructed the exterior backyard concrete stairs with a deviation in riser height of $\frac{3}{4}$ inch which
23 violated California Residential Code section R311.7.5.1.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Complete Project for Contract Price)**

26 30. Respondent American Pacific has subjected its license to disciplinary action under
27 Code section 7113, in that on the M.R. project, Respondent American Pacific failed in a material
28 respect to complete the project for the contract price and M.R. will be required to spend a

1 substantial sum in excess of the contract price to complete the project in accordance with the
2 contract.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Contract Violations)**

5 31. Respondent American Pacific has subjected its license to disciplinary action under
6 Code section 7164, in that on the M.R. project, Respondent American Pacific failed to comply
7 with the following provisions:

8 a. **Subdivision (b)(2):** Respondent American Pacific failed to include in the contract an
9 approximate date when work would begin and be substantially completed.

10 b. **Subdivision (b)(4):** Respondent American Pacific failed to include in the contract the
11 required language regarding the Mechanic's Lien Warning Statement.

12
13 **R.F.L. PROJECT**

14 32. On or about January 19, 2019, Respondent American Pacific entered into a contract
15 with R.F.L. to provide preconstruction services for the rebuilding of his home lost in the Tubbs
16 wildfire in Santa Rosa, California (R.F.L. project) for \$27,500.00. Work began on or about
17 February 1, 2019.

18 33. On or about May 27, 2019, Respondent American Pacific entered into a contract to
19 rebuild R.F.L.'s home for \$748,600.00. Respondent American Pacific and R.F.L. agreed to two
20 (2) change orders for the construction for additional electric, plumbing, and finish work for
21 \$6,285.00, and the addition of Quartz windowsill material for \$1,375.00. The total contract price
22 became \$754,260.00.

23 34. Beginning on or about May 7, 2019, R.F.L. began to receive preliminary lien notices
24 from Respondent American Pacific's suppliers and subcontractors for non-payment of materials
25 and services, including North Gate Ready Mix, ALCAL Specialty Contracting Inc., Jim Jonas
26 Inc., dba Jonas Energy Solutions, and Golden State Lumber. Respondent American Pacific failed
27 to pay material suppliers and subcontractors timely.

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1 the panel between the gate and the house and the closure below the panel between the fence and
2 the property line had warped excessively.

3 g. Failed to properly install the electrical fixtures and receptacles in that one receptacle
4 at the front porch was missing a cover and the trim rings and fasteners at the exterior hose bib
5 penetrations were plain steel material and not suitable for use in these locations.

6 h. Failed to properly install the front door in that the chrome/nickel finish of the
7 deadbolt did not match the matte black finish of the door lever and the door did not operate
8 smoothly and bound at the top of the jamb on the latch side.

9 i. Failed to properly install the garage exit door in that it did not operate smoothly and
10 bound on the jamb at the top of the hinge side.

11 j. Failed to properly install the baseboard along the west wall of the laundry in that it
12 was not securely fastened to the wall and there was a 3/8 inch gap at the wall.

13 k. Failed to properly install the threshold at the master bedroom exterior door in that it
14 was not adequately supported and flexed excessively.

15 l. Failed to properly install the crawlspace access hatch in that it did not accurately fit to
16 the opening in the closet floor and could not be removed.

17 m. Failed to properly install several of the bath accessory fixtures in that they were loose
18 and their brackets were pulling away from the wall.

19 **EIGHTH CAUSE FOR DISCIPLINE**

20 **(Deviation from Plans and Specifications)**

21 38. Respondent American Pacific has subjected its contractor's license to
22 disciplinary action under Code section 7109(b), in that on the R.F.L. project, Respondent
23 American Pacific deviated from plans and specifications as follows:

24 a. Failed to use the correct materials for the construction of the dryer vent in that four-
25 inch corrugated aluminum ducting was used instead of four-inch smooth metal duct per Sheet

26 A.4.

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1 **C.D. PROJECT**

2 41. In or about April 2018, Respondent American Pacific entered into a contract with
3 C.D. to provide preconstruction services for the rebuilding of her home lost in the Tubbs wildfire
4 in Santa Rosa, California (C.D. project) for \$27,500.00.

5 42. On or about July 26, 2018, Respondent American Pacific entered into a contract to
6 rebuild C.D.'s home for \$490,000.00. Work began on or about October 14, 2018 and was
7 completed in or about October 2019.

8 43. On or about January 31, 2020, C.D. received a preliminary lien notice from
9 Respondent American Pacific's subcontractor Arthur Beeken, dba Hybrid Home Performance for
10 non-payment of services rendered on the C.D. project. Respondent American Pacific failed to
11 pay this subcontractor timely.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Pay Subcontractor)**

14 44. Respondent American Pacific has subjected its license to disciplinary action under
15 Code section 7108.5, in that on the C.D. project, Respondent American Pacific failed to timely
16 pay subcontractor Arthur Beeken, dba Hybrid Home Performance for work performed on the
17 C.D. project.

18 **TWELFTH CAUSE FOR DISCIPLINE**

19 **(Departure from Accepted Trade Standards)**

20 45. Respondent American Pacific has subjected its license to disciplinary action under
21 Code section 7109(a), in that on the C.D. project, Respondent American Pacific willfully departed
22 from accepted trade standards for good and workmanlike construction in the following material
23 respects:

24 a. Failed to properly install the fence as follows:

25 1. The fence was not constructed to match the existing neighbor's fence as
26 Respondent and C.D. had agreed.

27 2. Failed to construct the fence in plumb, straight and true fashion and with proper
28 care.

1 2919, S.A. and Respondent American Pacific agreed to three change orders, increasing the
2 contract amount to \$508,015.00. Respondent American Pacific ceased work in or about March
3 2021.

4 50. On or about January 31, 2020, S.A. received a preliminary lien notice from
5 Respondent American Pacific's subcontractor Arthur Beeken, dba Hybrid Home Performance for
6 non-payment of services rendered on the S.A. project. Respondent American Pacific failed to pay
7 this subcontractor timely.

8 **FIFTEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Pay Subcontractor)**

10 51. Respondent American Pacific has subjected its license to disciplinary action under
11 Code section 7108.5, in that on the S.A. project, Respondent American Pacific failed to timely
12 pay subcontractor Arthur Beeken, dba Hybrid Home Performance for work performed on the S.A.
13 project.

14 **SIXTEENTH CAUSE FOR DISCIPLINE**

15 **(Departure from Accepted Trade Standards)**

16 52. Respondent American Pacific has subjected its license to disciplinary action under
17 Code section 7109(a), in that on the S.A. project, Respondent American Pacific willfully departed
18 from accepted trade standards for good and workmanlike construction in the following material
19 respects:

20 a. Failed to properly apply the interior paint in that there was an inconsistent paint sheen
21 in various areas inside the home.

22 b. Failed to properly install the ducting for the HVAC and FAU system in that there was
23 inadequate strapping resulting in ducting touching the ground in the crawlspace under the home.

24 c. Failed to properly install the main garage door in that the concrete driveway was
25 poured out of level resulting in weather stripping that did not seal to the ground when the door
26 was closed.

27 d. Failed to properly install baseboards in the home in that various baseboards lacked
28 enough or any caulking.

1 e. Failed to properly install the attic entrance in that it was caulked and painted shut and
2 unable to be opened.

3 f. Failed to properly install the fence as follows:

4 1. The fence was not constructed to trade standards in that workmanship issues
5 resulted in cracked, warped and insufficiently secured materials.

6 2. Various fence posts were not set in concrete resulting in excessive leaning into
7 the backyard of the home.

8 3. The north side gate had insufficient gate hinges installed resulting in the gate
9 sagging and impeding the operation of the latch.

10 **EIGHTEENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Pay for Materials or Services)**

12 53. Respondent American Pacific has subjected its contractor's license to disciplinary
13 action under Code section 7120, in that on the S.A. project, Respondent American Pacific failed
14 to pay subcontractor Arthur Beeken, dba Hybrid Home Performance, for services provided to the
15 S.A. project.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

17 **(Contract Violations)**

18 54. Respondent American Pacific has subjected its license to disciplinary action under
19 Code section 7164, in that on the S.A. project, Respondent American Pacific failed to comply
20 with the following provisions:

21 a. **Subdivision (b)(2)**: Respondent American Pacific failed to include in the contract an
22 approximate date when work would begin and be substantially completed.

23 b. **Subdivision (b)(4)**: Respondent American Pacific failed to include in the contract the
24 required language regarding the Mechanic's Lien Warning Statement.

25
26 **J.G. PROJECT**

27 55. On or about July 25, 2019, Respondent American Pacific entered into a contract with
28 J.G. and A.G. to rebuild their home following the Tubbs wildfire in Santa Rosa, California (J.G.

1 project) for \$1,469,430.00. Various change orders increased the total contract price to
2 \$1,495,242.75.

3 56. On or about September 16, 2019, Respondent American Pacific began work on the
4 J.G. project. Various change orders between April 2020 and October 2020 increased the total
5 contract price to \$1,495,242.75.

6 57. On or about January 7, 2021, J.G. and A.G. received preliminary lien notices from
7 Respondent American Pacific's suppliers and subcontractors, including Hogan Systems Inc.
8 Respondent American Pacific failed to pay this subcontractor timely.

9 58. On or about May 7, 2021, Respondent American Pacific ceased work on the J.G.
10 project. Respondent American Pacific failed to return to the project to complete the project and
11 had no legal excuse or reason to cease working.

12 **TWENTIETH CAUSE FOR DISCIPLINE**

13 **(Failure to Pay Subcontractor)**

14 59. Respondent American Pacific has subjected its license to disciplinary action under
15 Code section 7108.5, in that on the J.G. project, Respondent American Pacific failed to timely
16 pay subcontractor Hogan Systems Inc. for work performed on the J.G. project.

17
18 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

19 **(Abandonment)**

20 60. Respondent American Pacific has subjected its license to disciplinary action under
21 Code section 7107, in that Respondent American Pacific abandoned the J.G. project, without
22 legal excuse, leaving the following items to be completed:

- 23 a. Failed to complete HVAC installations in the Accessory Dwelling Unit (ADU) and
24 the main house.
- 25 b. Failed to complete the interior plumbing in the ADU and the main house.
- 26 c. Failed to complete appliance installations in the ADU and the main house.
- 27 d. Failed to complete the interior kitchen exhaust vent installation in the ADU.
- 28 e. Failed to complete the interior laundry closet exhaust vent installation in the ADU.

- 1 f. Failed to complete the backsplash installation in the bar/game room in the main
2 house.
- 3 g. Failed to complete the painting of the interior doors in the ADU and main house.
- 4 h. Failed to complete cabinet installation in the ADU and main house.
- 5 i. Failed to complete the interior staircase handrail installation in the main house to the
6 ADU.
- 7 j. Failed to complete exterior paintwork application.
- 8 k. Failed to complete the floating shelf installation in the main house.
- 9 l. Failed to complete the crawlspace vapor barrier installation under the main house.
- 10 m. Failed to complete the exterior siding installation.
- 11 n. Failed to complete the concrete landings under the stairs and exterior doors.
- 12 o. Failed to complete the low voltage CAT6 ethernet wire installation.

13 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Departure from Accepted Trade Standards)**

15 61. Respondent American Pacific has subjected its license to disciplinary action under
16 Code section 7109(a), in that on the J.G. project, Respondent American Pacific willfully departed
17 from accepted trade standards for good and workmanlike construction in the following material
18 respects:

- 19 a. Failed to properly install cabinets as follows:
- 20 1. Failed to inventory cabinets upon delivery to ensure all pieces were shipped and
21 accounted for from the manufacturer. As a result, there were missing components for
22 various cabinets in the home and ADU.
- 23 2. Modified a prefabricated modular cabinet assembly in the kitchen to fit a space
24 for which it was not designed. As a result, doors and drawers would not fit.
- 25 3. Ordered improperly sized cabinets. As a result, appliances ordered and onsite
26 were too small or too large.
- 27 4. Reversed orientation of the "L" molding that connected to the crown molding.
28 As a result, the crown molding was not installed properly.

- 1 b. Failed to properly install the metal spiral staircase as follows:
- 2 1. Installed staircase backwards.
- 3 2. Installed staircase with unfinished stair treads.
- 4 c. Failed to properly install and/or patch drywall in that various areas in the interior of
- 5 the home had visual defects.
- 6 d. Failed to properly install the master bathroom bathtub fixture in that the tile flooring
- 7 was cut, leaving a hole in the tile, and the fixture was installed directly to the sub floor.
- 8 e. Failed to properly install the tile in various areas in that grout was installed with
- 9 depressions, inconsistent depths and voids between tiles.
- 10 f. Failed to properly install the interior trim in that all mitered edges had separated and
- 11 lifted.
- 12 g. Failed to properly apply paint on the walls of the home, resulting in visual defects that
- 13 required re-painting.
- 14 h. Failed to properly install various Ground-Fault Circuit Interface (GFCI) outlets in that
- 15 they would not reset or trip.
- 16 i. Failed to properly install the ADU deck framing as follows:
- 17 1. Joists for the deck framing were installed 24-inch on center resulting in a
- 18 noticeable sag in the deck and composite deck board material.
- 19 2. Joists for the stair framing were installed 16-inch on center resulting in the
- 20 composite deck material not being installed to manufacturer's specifications.
- 21 j. Failed to remove three 50-gallon construction bags of debris under the home after
- 22 construction ceased.
- 23 k. Failed to replace insulation under the home in the crawlspace that was removed
- 24 during construction. As a result, one-third of the under-home framing lacked insulation.
- 25 l. Failed to install a vapor barrier under the home, resulting in a collection of moisture
- 26 and fungal growth under the home.
- 27 m. Failed to properly install the exterior siding in that areas were coming apart or
- 28 separating from the home.

- 1 n. Failed to properly install the gutters and downspouts in that they were dented and
2 bent in various locations.
- 3 o. Failed to properly install the interior doors in that various doors were difficult to
4 open, close, and latch.
- 5 p. Failed to properly install the glass door on the second story in that it was damaged
6 during installation and had a crack in the center glass.
- 7 q. Failed to properly install the back deck of the main house in that deck screws used to
8 secure the composite deck board material were popping up resulting in loose boards and
9 screw heads protruding.
- 10 r. Failed to properly install the porch railing of the main house in that 2 x 4 pickets used
11 were of poor quality and contained visual defects.
- 12 s. Failed to properly install the exterior driveway drainpipe in that it was broken during
13 trenching for electrical utilities and backfilled, resulting in a backup of water during
14 rainfall.
- 15 t. Failed to properly paint the exterior in that various areas were peeling, incomplete
16 and lightly covered.
- 17 u. Failed to properly install the electrical telecom wiring in that wiring was not properly
18 crimped for connectivity or properly labeled after installation.

19
20 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

21 **(Deviations from Plans and Specifications)**

22 62. Respondent American Pacific has subjected its contractor's license to
23 disciplinary action under Code section 7109(b), in that on the J.G. project, Respondent American
24 Pacific deviated from plans and specifications as follows:

- 25 a. Failed to order/install the correct hardware/drawer assembly for the corner cabinet in
26 the game room/bar area.
- 27 b. Failed to order/install correctly sized cabinetry and bathroom vanities throughout the
28 house resulting in onsite modifications to door frames and fixture placements.

1 c. Failed to install crawlspace venting per plans, page G1.1 General Note #11, that
2 comply with Wildland Urban Interface (WUI).

3 d. Failed to install the FAU for the home in the location outlined on the plans and
4 specifications, Sheet A4.1, A4.5, E1.2, and GT2.1.

5 e. Failed to install the "cool roof" material outlined in the Title 24 requirements on
6 Sheet G1.1 General Note 12.

7 f. Failed to install toilets with proper distancing outlined on the plans and specifications.

8 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

9 **(Failure to Complete Project for Contract Price)**

10 63. Respondent American Pacific has subjected its license to disciplinary action under
11 Code section 7113, in that on the J.G. project, Respondent American Pacific failed in a material
12 respect to complete the project for the contract price and J.G and A.G. will be required to spend a
13 substantial sum in excess of the contract price to complete the project in accordance with the
14 contract.

15 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

16 **(Contract Violations)**

17 64. Respondent American Pacific has subjected its license to disciplinary action under
18 Code section 7164, in that on the J.G. project, Respondent American Pacific failed to comply
19 with the following provisions:

20 a. **Subdivision (b)(2):** Respondent American Pacific failed to include in the contract an
21 approximate date when work would begin and be substantially completed.

22 b. **Subdivision (b)(4):** Respondent American Pacific failed to include in the contract the
23 required language regarding the Mechanic's Lien Warning Statement.

24
25 **CAUSE FOR OTHER ACTION**

26 **(Restrictions on Qualifier – Respondent Steven William Matt Bates)**

27 65. Pursuant to Code section 7121.5, if license number 1017194, issued to Respondent
28 American Pacific is revoked or suspended, Respondent Steven William Matt Bates shall be

1 prohibited from serving as an officer, director, associate, partner, manager, or qualifying
2 individual of a licensee during the time the discipline is imposed, whether or not he had
3 knowledge of or participated in the acts or omissions constituting grounds for discipline as
4 alleged in the causes for discipline, above, and any licensee which employs, elects, or associates
5 Respondent Steven William Matt Bates other than as a bona fide nonsupervising employee shall
6 be subject to disciplinary action.

7
8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Registrar issue a decision:

- 11 1. Ordering the revocation or suspension of Contractor's License Number 1017194
12 issued to American Pacific Builders, Inc., pursuant to Code section 7090;
- 13 2. Ordering restitution of all damages according to proof suffered by M.R., R.F.L., C.D.,
14 S.A., and/or J.G and A.G, as a condition of probation in the event probation is ordered for
15 Respondent American Pacific, pursuant to Government Code section 11519, subdivision (d);
- 16 3. Ordering Respondent American Pacific to pay the Registrar costs for the investigation
17 and enforcement of the case according to proof at the hearing, pursuant to Code section 125.3;
- 18 4. Ordering Respondent American Pacific to provide the Registrar with a listing of all
19 contracting projects in progress and the anticipated completion date of each, pursuant to Code
20 section 7095;
- 21 5. Ordering that Respondent Steven William Matt Bates is prohibited from serving as an
22 officer, director, associate, partner, manager or qualifying individual of a licensee, pursuant to
23 Code section 7121.5;

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6. Taking such other and further action deemed proper.

DATED: 6-24-22



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

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