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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: **AGA CONSTRUCTION INC.; ARIEL AZRIEL, RMO/CEO/PRES** 18375 Ventura Blvd #548 Tarzana, CA 91356 Contractor's License No. 918705, B Respondents.	Case No. N2022-229 **ACCUSATION**

PARTIES

1. Brian Melvin (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 July 7, 2008, the Registrar of Contractors (Registrar) issued Contractor's License Number 918705 in classification B (general building) to AGA Construction Inc. (Respondent AGA). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2024, unless renewed.

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3. At all times relevant to the allegations set forth herein, Ariel Azriel (Respondent Azriel) was Respondent AGA's Responsible Managing Officer (RMO). Respondent Azriel disassociated from Respondent AGA, effective December 17, 2021.

PERSONNEL OF RECORD

4. "Members of the personnel of record" of an entity that holds a contractor's license is defined in Business and Professions Code (Code) section 7025 and "means every person listed in the records of the registrar as then associated with a licensee." Respondent AGA is a corporation organized under the laws of California, and has listed the following individual as associated personnel, which are of record with the Board and not named as respondents herein: Patrick Doan, RMO/CEO/PRES.

JURISDICTION

5. 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.

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

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

7. Section 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.

8. 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.

9. 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.

10. Section 7121.5 of the Code states:

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

STATUTORY PROVISIONS

11. Section 7068.1 of the Code states, in pertinent part:

(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.

. . .

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

12. Section 7083 of the Code states, in pertinent part:

(a) Notwithstanding any other law, licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

. . .

(c) Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action

13. 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.

14. 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.

15. 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.

16. Section 7117 of the Code states:

Acting in the capacity of a contractor under any license issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this chapter, constitutes a cause for disciplinary action.

COST RECOVERY, RESTITUTION AND OTHER AUTHORITY

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

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

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

. . . .

18. 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.

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19. 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.

20. 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.

21. 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.

22. 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.

23. Government Code section 11519 states:

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

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

(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.

KENT STREET PROJECT

24. On January 28, 2019, Respondent AGA entered into a written contract with a limited liability company (Consumer) to provide remodeling and renovation to an existing two-story residence located on Kent Street in Los Angeles for a total cost of $325,485. Several written

change orders were executed over the next few weeks that increased the total cost of the project to $365,235. In general terms, the contract called for substantial demolition of the home's existing floorplan and complete remodeling of the first and second floors, including construction of a 450 square foot addition to the second floor. Pursuant to the terms of the contact, Respondent AGA was to perform all work in accordance with the approved architectural/building plans provided by the Consumer. Among other things, the broad scope of work encompassed by the contract included extensive frame construction related to interior and exterior walls, floors and staircase, ceilings and roof.

25. Respondent AGA commenced work on or about February 4, 2019, and continued until on or around October 3, 2019. Respondent AGA was paid a total of $189,000 during that 8-month period, including tens of thousands of dollars in progress payments for completion of framing construction. However, Respondent AGA never actually completed the framing, as Respondent's work on the project fell well behind schedule, and the Los Angeles Department of Building and Safety issued multiple notices of correction related to deficiencies in Respondent's framing work. In addition, much of Respondent's framing construction was not performed in accordance with the approved building plans.

26. Concerned about Respondent's workmanship with regard to the framing construction, the Consumer hired another licensed contractor to inspect Respondent's framing work. The contractor prepared a report, dated August 18, 2019, in which he identified numerous deficiencies in Respondent's framing work and recommended that all work stop until the deficiencies were addressed. The Consumer hired an attorney who conveyed the specific deficiencies to Respondent AGA in a Notice of Default on performance of contract and demanded that the deficiencies be corrected. Although Respondent AGA addressed some of the deficiencies cited by the outside contractor, the vast majority of the issues were not corrected.

27. Thereafter, the Consumer hired a structural engineer to inspect Respondent's framing work. The structural engineer prepared a 34-page report, dated October 2, 2019, wherein he itemized in detail numerous framing deficiencies in Respondent AGA's work. Those deficiencies included but are not limited to the following framing construction work: exterior sheathing, wall

plate hold downs, blocking in walls and floors, metal joists and rafter hangers, shear wall plywood cladding, stairway installation, sistered joists, the west walls of the structure, post cap saddles, and bedroom floor joists. As a result of Respondent AGA's failure to correct the numerous deficiencies in the framing construction despite having been paid to complete all framing work, being placed on notice of those deficiencies and provided with an opportunity to cure them, the Consumer terminated the contract on October 3, 2019.

28. Thereafter, the Consumer was required to hire a different contractor to correct and complete the project at a cost of $480,938. The Consumer filed a claim against Respondent AGA's bond companies and received payment of $15,000. As a result of Respondent AGA's actions, the Consumer sustained financial injury as set forth below:

Total Contract Amount:	$365,235
Amount Paid to Respondent:	-$189,000
Balance Owed on Project:	$176,235
Cost to Correct & Complete:	-$480,938
Total Financial Injury	$304,703
Bond Payout:	-$15,000
Final Total Financial Injury:	$289,703

29. During its investigation of this matter, the Board discovered that Respondent Azriel, who served as Respondent AGA's RMO of record at all times relevant to the Kent Street Project, had no contact with the Consumer and no involvement in or supervision over the project. The Board's investigation further revealed that Respondent AGA was operating with two corporate officers, Chief Financial Officer Micky Kanian and Secretary Bella Ward, who were not identified as personnel of record on its license as required by state law.

FIRST CAUSE FOR DISCIPLINE

(Failure to Exercise Supervision/Control Over Project)

30. Respondent AGA is subject to disciplinary action under Code section 7068.1 in that its RMO, Respondent Azriel, failed to exercise direct supervision and control of Respondent AGA's construction operations on the Kent Street Project. Complainant refers to, and by this reference incorporates, the allegations set forth above as though set forth fully herein.

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SECOND CAUSE FOR DISCIPLINE

(Project Abandonment)

31. Respondent AGA is subject to disciplinary action under Code section 7107 in that Respondent abandoned the Kent Street Project without legal excuse by failing to cure known deficiencies with its framing work. Complainant refers to, and by this reference incorporates, the allegations set forth above as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Willful Departure from Accepted Trade Standards)

32. Respondent Canopy is subject to disciplinary action under Code section 7109, subdivision (a), in that Respondent willfully departed from accepted trade standards with respect to the Kent Street Project. Complainant refers to, and by this reference incorporates, the allegations set forth above as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Complete Project for Contracted Price)

33. Respondent Canopy is subject to disciplinary action under Code section 7113 in that Respondent failed to complete the Kent Street Project for the price stated in the contract. Complainant refers to, and by this reference incorporates, the allegations set forth above as though set forth fully herein.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Notify CSLB of Personnel Changes)

34. Respondent AGA is subject to disciplinary action under Code section 7083 in that Respondent failed to notify the Board within 90 days of changes to its personnel of record. Complainant refers to, and by this reference incorporates, the allegations set forth above as though set forth fully herein.

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SIXTH CAUSE FOR DISCIPLINE

(Operating with Personnel Not Identified to CSLB)

35. Respondent AGA is subject to disciplinary action under Code section 7117 in that Respondent operated in the capacity of a contractor with personnel who were not listed on its license as personnel of record.

CAUSE FOR OTHER ACTION

(Restrictions on Qualifier – Respondent Ariel Azriel)

36. Pursuant to Code section 7121.5, if Contractor's License Number 918705 issued to Respondent AGA is revoked or suspended, Respondent Azriel 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 Azriel 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 918705 issued to AGA Construction Inc., pursuant to Code section 7090;

2. Ordering restitution of all damages according to proof suffered by the Consumer as a condition of probation in the event probation is ordered for Respondent AGA Construction Inc. and/or Respondent Ariel Azriel, pursuant to Government Code section 11519, subdivision (d);

3. If revocation of Contractor's License Number 918705, issued to AGA Construction Inc., is ordered, an order for restitution of all damages suffered by the Consumer as a condition precedent to any future restoration of Contractor's License Number 918705, or before any new license is issued;

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4. Ordering Respondent AGA Construction 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;

5. Ordering Respondent AGA Construction 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;

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

7. Taking such other and further action deemed proper.

DATED: 9/15/2023

BRIAN MELVIN
Supervising Special Investigator I
Contractors State License Board
Department of Consumer Affairs
State of California
Complainant

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