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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. N2023-165

14 **ENERGY SERVICE PARTNERS INC.**
15 **DBA ESP CONTRACTING, KENNETH**
16 **GARY GIETZ, RMO/CEO/PRES,**
17 **NORWARD JACK MCCLARY, RME**
970 West 190th Street, Suite 302
Torrance, CA 90502

FIRST AMENDED ACCUSATION

18 Contractor's License No. 619149

19 Respondents.
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21 **PARTIES**

22 1. Brian Melvin (Complainant) brings this First Amended Accusation solely in his
23 official capacity as the Supervising Special Investigator I of the Contractors State License Board
24 (Board), Department of Consumer Affairs.

25 2. On or about May 11, 1991, the Registrar of Contractors (Registrar) issued
26 Contractor's License Number 619149 to Energy Service Partners Inc. dba ESP Contracting
27 (Respondent ESP), Kenneth Gary Gietz, RMO/CEO/PRES (Respondent Kenneth Gary Gietz),
28 and Norward Jack McClary, RME (Respondent Norwood Jack McClary). 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, 2025, unless renewed.

JURISDICTION

3. This First Amended 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 (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 7109, subdivision (a) of the Code states:

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.

10. 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.

11. Section 7116 of the Code states:

The doing of any wilful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured constitutes a cause for disciplinary action.

12. Section 7119 of the Code states:

Wilful failure or refusal without legal excuse on the part of a licensee as a contractor to prosecute a construction project or operation with reasonable diligence causing material injury to another constitutes a cause for disciplinary action.

13. Section 7154 of the Code states:

(a) A home improvement contractor licensed under this chapter shall notify the registrar in writing, on a form prescribed by the registrar, about the employment of a registered home improvement salesperson, pursuant to the terms of this article. This notification requirement shall include, but not be limited to, the name and registration number of the home improvement salesperson who is employed by the contractor. The form shall be submitted prior to the home improvement salesperson beginning work for the contractor.

(b) A home improvement contractor shall notify the registrar in writing, on a form prescribed by the registrar, when a registered home improvement salesperson ceases to be employed by the contractor. This notification requirement shall include, but not be limited to, the name and registration number of the home improvement salesperson who had been employed by the contractor. The form shall be submitted within 90 days after the home improvement salesperson ceases to be employed by the contractor.

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1 (c) A home improvement contractor who employs a registered home
2 improvement salesperson to sell home improvement contracts, but who fails to report
3 to the registrar pursuant to subdivision (a) or (b), is subject to disciplinary action by
4 the registrar.

5 (d) A home improvement contractor who employs a person to sell home
6 improvement contracts while that person is not registered by the registrar as a home
7 improvement salesperson as provided in this article, is subject to disciplinary action
8 by the registrar.

9 **COST RECOVERY, RESTITUTION AND OTHER AUTHORITY**

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

11 (a) Except as otherwise provided by law, in any order issued in resolution of a
12 disciplinary proceeding before any board within the department or before the
13 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the

14 administrative law judge may direct a licentiate found to have committed a violation
15 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
16 the investigation and enforcement of the case.

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

19 ...

20 15. Section 11519 of the Government Code states:

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

25 (b) A stay of execution may be included in the decision or if not included
26 therein may be granted by the agency at any time before the decision becomes
27 effective. The stay of execution provided herein may be accompanied by an express
28 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.

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1 (e) The person to which the agency action is directed may not be required to
2 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.

3 (f) A nonparty may not be required to comply with a decision unless the agency
4 has made the decision available for public inspection and copying or the nonparty has
actual knowledge of the decision.

5 (g) This section does not preclude an agency from taking immediate action to
6 protect the public interest in accordance with Article 13 (commencing with Section
11460.10) of Chapter 4.5.

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

8 Any board, bureau, or program within the Department of Consumer Affairs that
9 takes disciplinary action against a licensee or licensees based on a complaint or report
10 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
11 licensee or licensees to pay any additional sums to the benefit of any plaintiff in the
civil action.

12 17. Section 7095 of the Code states:

13 (a) The decision may:

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

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

17 (3) Impose upon the licensee compliance with such specific terms and
18 conditions as may be just in connection with the licensee's operations as a contractor
disclosed at the hearing and may further provide that until those terms and conditions
19 are complied with no application for restoration of the suspended or revoked license
shall be accepted by the registrar.

20 (4) (A) Provide for the stay of execution of the decision pending completion of
21 specified terms and conditions of probation.

22 (B) Failure to fully comply with the terms and conditions of probation set
pursuant to subparagraph (A) may result in automatic termination of the stay of
23 execution without further notice. If a stay of execution is terminated pursuant to this
subparagraph, the decision shall be considered a disciplinary action within the
24 meaning of this chapter.

25 (b) The specific terms and conditions imposed pursuant to paragraph (3) or (4)
of subdivision (a) may include, but are not limited to, any of the following:

26 (1) Payment of restitution to persons injured as a result of the violation.

27 (2) Payment of the costs of investigation and enforcement pursuant to Section
28 125.3.

1 (3) Enrollment in, and completion of, specified administrative or trade-specific
2 coursework.

3 (4) Successful completion of the board's law and business examination or trade
4 examination, as appropriate.

5 (5) Any further terms and conditions as are set forth for specified violations in
6 the board's disciplinary guidelines in Section 871 of Title 16 of the California Code
7 of Regulations.

8 18. Section 7097 of the Code states:

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

16 19. Section 7098 of the Code states:

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

22 20. Section 7102 of the Code states:

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

28 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.

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1 (b) The history of previous violations.

2 (c) Criminal convictions.

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

8 **STRATFORD AVENUE PROJECT**

9 21. On April 4, 2022, consumer complainant V.P. executed a written home improvement
10 contract (contract) with Respondent ESP for the installation of a solar system at her home, located
11 on Stratford Avenue in South Pasadena, California (Stratford Avenue Project). The contract price
12 of \$17,666 included eleven (11) solar panels, equipment, labor, and materials. V.P. paid an initial
13 deposit of \$1,000.00 to Respondent ESP. The contract was sold by registered home improvement
14 salesperson Raman Staradub, who was not registered as a salesperson under Respondent ESP's
contractor's license at that time, which was a violation of law on the part of Respondent ESP.

15 22. On May 3, 2022, V.P. executed a second written contract with Respondent ESP,
16 which by its terms canceled the original contract between the parties. The new contract price of
17 \$28,901.00 included the previous scope of work, plus the installation of a new roof by
18 Respondent ESP. This second contract was also sold by salesperson Raman Staradub, who was
19 still not registered as a salesperson under Respondent ESP's contractor's license at that time, and
20 thus constituted another violation of law on the part of Respondent ESP.

21 23. On June 1, 2022, Respondent ESP stripped the existing roof. Thereafter, the
22 installation of the new roof was completed by Respondent ESP and signed off on as completed on
23 June 9, 2022.

24 24. On June 20, 2022, V.P. executed a third written third contract with Respondent ESP,
25 which effectively canceled the previous (second) contract. The new contract price of \$34,005.00
26 included the same scope of work as the previous contracts between the parties, plus the
27 installation of four (4) additional solar panels. This third contract was again sold on behalf of
28

Respondent ESP by salesperson Raman Staradub, who was still not registered as a salesperson under Respondent ESP's contractor's license

25. On July 21, 2022, at Respondent ESP's request, V.P. tendered a payment to Respondent ESP in the amount of \$12,366. 00. Thereafter, on August 14, 2022, V.P. tendered another separate payment to Respondent V.P. in the amount of \$11,438.00.

26. In December 2022, Respondent ESP completed the installation of the solar system on the Stratford Avenue Project. At such time, Respondent ESP represented to V.P. that the solar system was connected and that the Stratford Avenue Project was completed in full. V.P. thereafter tendered to Respondent ESP the remaining monies due under the contract.

27. In February 2023, V.P. received a notice from the utility company which included extra charges for electricity. V.P. thereafter discovered that she had two different accounts with the utility company because she now had two electric meters. One of the electric meters was connected to her electric vehicle. The other electric meter was connected to the solar system that had been installed by Respondent ESP. V.P. also learned at that time that only the electric meter for her electric vehicle was actually connected to the utility company, and that the electric meter that was linked to the solar system had not been not connected to the utility company. As a result, V.P. never received the credit she was due for the energy produced by her solar system.

Furthermore, V.P. also discovered at that time that Respondent ESP had failed to aggregate the two electric meters for purposes of combining them into one account with the utility company.

28. Thereafter, in August 2023, Respondent ESP's representative and project manager, Brad Cumyns (Cumyns) admitted that there were two electric meters and that aggregation of these two meters was required as part of Respondent ESP's duties and responsibilities in connection with the Stratford Avenue Project. Respondent ESP representative Cumyns thereafter advised that he was working on correcting this deficiency and that it would take Respondent ESP a couple of weeks to fix this problem. According to Respondent ESP representative Cumyns, in order to correct this deficiency, he intended to submit the necessary documents required to do so to the utility company.

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29. However, as of the date the Board concluded its investigation regarding the Stratford Avenue Project, Respondent ESP had still not corrected this deficiency regarding its (Respondent ESP's) duty and responsibility to aggregate V.P.'s two electric meters with her utility company accounts. Accordingly, the Board investigator determined that Respondent ESP had failed to prosecute the Stratford Avenue Project with reasonable diligence, and that V.P. was materially injured as a result thereof.

30. The Board's investigator also determined that due to Respondent ESP's failure to aggregate V.P.'s electric meters on the Stratford Avenue Project in accordance with its duty to do so, while representing to V.P. that the solar system was fully and correctly connected and that the solar project on the Stratford Avenue Project was entirely completed, Respondent ESP's actions in this regard were fraudulent, and that V.P. was substantially injured as a result thereof.

FIRST CAUSE FOR DISCIPLINE

(Willful or Fraudulent Act Causing Substantial Injury – Respondent ESP)

31. Respondent ESP has subjected its license to disciplinary action under Code section 7116, in that on the Stratford Avenue Project, it willfully or fraudulently committed one or more acts in consequence of which V.P. was substantially injured. Complainant hereby incorporates paragraphs 21-30 above as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Willful Failure/Refusal to Prosecute Project with Reasonable Diligence – Respondent ESP)

32. Respondent ESP has subjected its license to disciplinary action under Code section 7119, in that on the Stratford Avenue Project, it willfully failed or refused without legal excuse to prosecute a construction project or operation with reasonable diligence causing material injury to V.P. Complainant hereby incorporates paragraphs 21-30 above as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Failure to Report Registered Home Improvement Salesperson to Board – Respondent ESP)

33. Respondent ESP has subjected its license to disciplinary action under Code section 7154, subdivision (c), in that on the Stratford Avenue Project, it failed to report its salesperson on

1 the project, Raman Staradub, as one of its registered home improvement salespersons to the
2 Board. Complainant hereby incorporates paragraphs 21-30 above as though set forth fully herein.

3 **WALL STREET PROJECT**

4 34. On April 13, 2022, consumer complainant R.D. executed a written home
5 improvement contract (contract) with Respondent ESP for the installation of a solar system at his
6 home, located on Wall Street in Los Angeles, California (Wall Street Project). The contract price
7 of \$27,147 included the installation of eight solar panels. The Wall Street Project contract was
8 sold on behalf of Respondent ESP by Carlos Mejia (Mejia), an unregistered home improvement
9 salesperson.

10 35. According to R.D., Mejia advised him to obtain a loan to pay for the Wall Street
11 Project, while also representing to R.D. that a government program would pay \$7,000.00 of the
12 total price, and that R.D. would only have to pay \$20,147.00. Based upon such representations
13 by Mejia, R.D. signed both the contract and the loan application electronically.

14 36. In June 2022, Respondent ESP installed the solar system at R.D.'s residence, pursuant
15 to the contract.

16 37. In July 2022, R.D. began receiving automatic charges on his bank account to pay
17 the loan. R.D. also discovered at that time that he would not be receiving any tax rebates and
18 that no government program would be paying \$7,000.00 – or any amount – of the \$27,147.00
19 in connection with the Wall Street Project. Therefore, contrary to Mejia's representations before
20 he signed the contract with Respondent ESP, R.D. became aware for the first time that he would
21 be responsible for paying the entire \$27,147.00 loan in connection with the Wall Street Project.

22 38. As a result thereof, R.D. lodged a consumer complaint with the Board against
23 Respondent ESP. On June 2, 2023, R.D. requested the Board's assistance in compelling
24 Respondent ESP to remove the solar system it had installed and cancel its contract with him, as
25 he (R.D.) would be financially unable to afford the monthly payments he was being required to
26 pay on the \$27,147.00 loan in connection with the Wall Street Project.

27 39. Thereafter, the Board investigator spoke with Respondent ESP's project manager
28 Cumyns regarding the Wall Street Project, and an agreement was reached between

Respondent ESP and R.D., wherein the \$27,147.00 loan was canceled and R.D. was allowed to keep the solar system.

FOURTH CAUSE FOR DISCIPLINE

(Employed an Unregistered Home Improvement Salesperson – Respondent ESP)

40. Respondent ESP has subjected its license to disciplinary action under Code section 7154, subdivision (d), in that on the Wall Street Project, it employed an unregistered home improvement salesperson to solicit and sell a home improvement contract to R.D. on Respondent ESP's behalf. Complainant hereby incorporates paragraphs 34-39 above as though set forth fully herein.

JAGO AVENUE PROJECT

41. On March 12, 2021, consumer complainant J.T.'s brother, J.T., the now deceased co-owner of their property located on Jago Avenue in Clearlake, California (Jago Avenue Project) executed a written home improvement contract (contract) with Respondent ESP for the installation of a solar system at their home for \$31,355.00.

42. The contract on the Jago Avenue Project was negotiated and sold by Shameer Jalil, an unregistered salesperson, on behalf of Respondent ESP.

43. Thereafter, Respondent ESP installed the solar system in furtherance of the Jago Avenue Project contract, for which Respondent ESP was paid in full.

FIFTH CAUSE FOR DISCIPLINE

(Employed an Unregistered Home Improvement Salesperson – Respondent ESP)

44. Respondent ESP has subjected its license to disciplinary action under Code section 7154, subdivision (d), in that on the Jago Avenue Project, it employed an unregistered home improvement salesperson to solicit and sell a home improvement contract to J.T. on its (Respondent ESP's) behalf. Complainant hereby incorporates paragraphs 41-43 above as though set forth fully herein.

BRISTOL PARK CIRCLE PROJECT

45. On or about August 9, 2021, homeowner C.C. (C.C.) entered into a written contract with Respondent ESP to have a solar system installed on his home located on Bristol Park Circle

1 in Turlock, California (Bristol Park Circle Project). The agreed upon price of the contract was
2 \$43,892.00. On or about November 2021, Respondent installed the solar system. Two months
3 later, C.C. received the financing documents, confirming that Respondent ESP was paid in full
4 regarding the Bristol Park Circle Project.

5 46. Prior to installing the solar system on the Bristol Park Circle Project, an employee of
6 Respondent ESP inspected C.C.'s roof and determined that its condition was physically suitable
7 for the installation of the solar system without the need for any repairs, which included an
8 assessment of the condition of the felt paper under the roof's tiles. Respondent ESP documented
9 its pre-inspection and determination regarding the roof's condition in this regard. Respondent
10 ESP also determined that C.C.'s roof was observably "old" at that time.

11 47. On March 23, 2023, C.C. noticed water leaking from the ceiling vent in the kitchen.
12 As a result, C.C. hired a licensed roofing contractor to inspect the roof. Neither C.C. nor any
13 other person had physically been on the roof between the time Respondent ESP completed the
14 Bristol Park Circle Project and when the leak was discovered. According to C.C., there had been
15 no other roof leaks up to that point.

16 48. The licensed roofing contractor inspected C.C.'s roof and discovered the following:

17 a. There were many broken and cracked roof tiles located around the solar system arrays
18 and in the areas of the roof where Respondent ESP workers had traversed while installing the
19 solar system.

20 b. The felt paper under the broken and cracked tiles had deteriorated, causing water to
21 penetrate through the ceiling.

22 c. The licensed roofing contractor further determined that Respondent ESP's employees
23 caused the roof tiles to become broken and/or cracked during their installation of C.C.'s solar
24 system and then failed to repair such damage they had caused, which constituted workmanship
25 that failed to meet industry standards.

26 49. As a result of his inspection of C.C.'s roof, the licensed roofer determined that the
27 only reasonable remedial measure that could be implemented to repair the roof would be to
28 replace the roof in its entirety. The licensed roofer did so and charged C.C. \$20,300.00 for the

1 job, which C.C. paid in full. C.C. demanded that Respondent ESP accept financial responsibility
2 for his (C.C.'s) need to pay for the new roof after Respondent ESP's workers caused the damage
3 that necessitated it, but Respondent ESP refused to accept any responsibility for this.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Departure from Accepted Trade Standards – Respondent ESP)**

6 50. Respondent ESP has subjected its license to disciplinary action under Code section
7 7109, subdivision (a), in that on the Bristol Park Circle Project, it willfully departed from
8 accepted trade standards for good and workmanlike construction as set forth in paragraphs 45-49
9 above. M.R. was obligated to pay another contractor the amount of \$20,300.00 to correct the
10 project.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Complete Project for Price Stated in Contract - Respondent ESP)**

13 51. Respondent ESP has subjected its license to disciplinary action under Code section
14 7113, in that on the Bristol Park Circle Project, it failed in a material respect to complete the
15 project for the price stated in the contract. M.R. was obligated to pay another contractor
16 \$20,300.00 to correct the project. Complainant hereby incorporates paragraphs 45-49 above as
17 though set forth fully herein.

18 **CAUSES FOR OTHER ACTION**

19 **FIRST CAUSE FOR OTHER ACTION**

20 **(Restrictions on Corporate Qualifier – Respondent Kenneth Gary Gietz)**

21 52. Pursuant to section 7121.5 of the Code, if License Number 619149, issued to
22 Respondent ESP is revoked or suspended, Respondent Kenneth Gary Gietz shall be prohibited
23 from serving as an officer, director, associate, partner, manager, or qualifying individual of a
24 licensee during the time the discipline is imposed, whether or not he had knowledge of or
25 participated in the acts or omissions constituting grounds for discipline as alleged in the causes
26 for discipline, above, and any licensee which employs, elects, or associates Respondent Kenneth
27 Gary Gietz other than as a bona fide nonsupervising employee shall be subject to disciplinary
28 action.

1 **SECOND CAUSE FOR OTHER ACTION**

2 **(Restrictions on Responsible Managing Employee – Respondent Norwood Jack McClary)**

3 53. Pursuant to section 7121.5 of the Code, if License Number 619149, issued to
4 Respondent ESP is revoked or suspended, Respondent Norwood Jack McClary shall be
5 prohibited from serving as an officer, director, associate, partner, manager, or qualifying
6 individual of a licensee during the time the discipline is imposed, whether or not he had
7 knowledge of or participated in the acts or omissions constituting grounds for discipline as
8 alleged in the causes for discipline, above, and any licensee which employs, elects, or associates
9 Respondent Norwood Jack McClary other than as a bona fide nonsupervising employee shall be
10 subject to disciplinary action.

11 **DISCIPLINARY CONSIDERATIONS**

12 54. To determine the degree of discipline, if any, to be imposed on Respondent Energy
13 Service Partners Inc. dba ESP Contracting, Kenneth Gary Gietz, RMO/CEO/PRES, and Norward
14 Jack McClary, RME, Complainant alleges that effective July 22, 2019, the Registrar issued a
15 Decision and Order, in a disciplinary action entitled, "*In the Matter of the Accusation Against*
16 *Energy Service Partners Inc. dba ESP Contracting, Kenneth Gary Gietz, RMO/CEO/PRES*",
17 Case No. N2017-309, in which Contractor's License Number 619149 issued to Energy Service
18 Partners Inc. dba ESP Contracting, Kenneth Gary Gietz, RMO/CEO/PRES, was revoked.
19 However, the revocation was stayed, and License Number 6190149 was placed on probation for a
20 period of three (3) years with certain terms and conditions. That probation is now completed, and
21 the Decision and Order in Case No. N2017-309 is hereby incorporated by reference as if fully set
22 forth herein.

23 55. To determine the degree of discipline, if any, to be imposed on Respondent Energy
24 Service Partners Inc. dba ESP Contracting, Kenneth Gary Gietz, RMO/CEO/PRES, and Norward
25 Jack McClary, RME, Complainant alleges that on or about December 21, 2023, in a previous
26 matter entitled *Letter of Admonishment*, Contractors State License Board Letter of Admonishment
27 No. LOA 2023-0189, the Board issued a Letter of Admonishment to Respondent Kenneth (Gary)
28 Gietz and Energy Service Partners Inc. (Contractor's License Number 619149), for violating the

1 following: Code sections 7115/7169 [Entered into a contract for a project located on Spring St. in
2 Riverside, CA, but failed to provide a contract that met the Solar Energy System Disclosure
3 Document requirements specified by BPC§ 7115/7169]. That Letter of Admonishment No. LOA
4 2023-0189 is hereby incorporated by reference as if fully set forth herein.

5 **PRAYER**

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

8 1. Ordering the revocation or suspension of Contractor's License Number 619149 issued
9 to Respondent Energy Service Partners Inc. dba ESP Contracting, Kenneth Gary Gietz,
10 RMO/CEO/PRES, and Norward Jack McClary, RME, pursuant to Code section 7090;

11 2. Ordering Respondent Energy Service Partners Inc. dba ESP Contracting to pay the
12 Registrar costs for the investigation and enforcement of the case according to proof at the hearing,
13 pursuant to Code section 125.3;

14 3. Ordering Respondent Energy Service Partners Inc. dba ESP Contracting, Kenneth
15 Gary Gietz, RMO/CEO/PRES, and Norward Jack McClary, RME and/or Respondent Kenneth
16 Gary Gietz to provide the Registrar with a listing of all contracting projects in progress and the
17 anticipated completion date of each, pursuant to Code section 7095;

18 4. Ordering that Respondent Kenneth Gary Gietz is prohibited from serving as an
19 officer, director, associate, partner, manager or qualifying individual of a licensee, pursuant to
20 Code section 7121.5;

21 5. Ordering that Respondent Norward Jack McClary 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;

24 6. Ordering restitution of all damages according to proof suffered by V.P. and C.C. as a
25 condition of probation in the event probation is ordered for Respondent Energy Service Partners
26 Inc. dba ESP Contracting and/or Respondent Norward Jack McClary, pursuant to Government
27 Code section 11519, subdivision (d);

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1 7. If revocation of License Number 619149 issued to Respondent Energy Service
2 Partners Inc. dba ESP Contracting is ordered, an order for restitution of all damages suffered by
3 V.P. and C.C. as a result of Respondent Energy Service Partners Inc. dba ESP Contracting's
4 conduct as a contractor, as a condition precedent to any future restoration of License Number
5 619149 before any new license is issued;

6 8. Taking such other and further action deemed proper.

7
8 DATED: 6/5/2025

Brian Melvin

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

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