1 2 3 4 5 6 7	XAVIER BECERRA Attorney General of California DIANN SOKOLOFF Supervising Deputy Attorney General NICHOLAS TSUKAMAKI Deputy Attorney General State Bar No. 253959 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Telephone: (510) 879-0982 Facsimile: (510) 622-2270 Attorneys for Complainant	
8	BEFORE THE	
9	REGISTRAR OF CONTRACTORS CONTRACTORS' STATE LICENSE BOARD	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Accusation Against:	Case No. N2017-198
13	GOODWIN MILLWORKS TONY JOSEPH GOODWIN, SOLE	
14	OWNER 3200 Dutton Avenue, #311	ACCUSATION
15	Santa Rosa, CA 95407	
16	Contractor License No. 783179	
	Respondent.	
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19	Complainant alleges:	
20	PARTIES	
21	1. Wood Robinson (Complainant) brings this Accusation solely in his official capacity	
22	as the Enforcement Supervisor I of the Contractors' State License Board, Department of	
23	Consumer Affairs.	
24	2. On or about August 17, 2000, the Registrar of Contractors issued Contractor License	
25	Number 783179 to Goodwin Millworks, Tony Joseph Goodwin, Sole Owner (Respondent). The	
26	Contractor License was in full force and effect at all times relevant to the charges brought in this	
27	Accusation and expired on November 30, 2016.	
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JURISDICTION

- 3. This Accusation is brought before the Registrar of Contractors (Registrar) for the Contractors' State License Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 4. Section 7106.5 of the Code provides, in pertinent part, that the expiration, cancellation, forfeiture, 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 the license 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.

STATUTORY PROVISIONS

- 5. Section 7027.3 of the Code provides, in pertinent part: "Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both that fine and imprisonment. . . ."
- 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 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."
- 8. Section 7108 of the Code states: "Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, or failure substantially to account for the application or use of such funds or property on the construction project or operation for which such funds or property were received constitutes a cause for

disciplinary action."

- 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 7110 of the Code provides, in pertinent part: "Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, . . . constitutes a cause for disciplinary action."
- 11. Section 7110.5 of the Code states: "Upon receipt of a certified copy of the Labor Commissioner's finding of a willful or deliberate violation of the Labor Code by a licensee, pursuant to Section 98.9 of the Labor Code, the registrar shall initiate disciplinary action against the licensee within 180 days of notification."
- 12. 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."
- 13. 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."
- 14. Section 7117.5, subdivision (b) of the Code states: "Acting in the capacity of a contractor under any license that has been suspended for any reason constitutes a cause for disciplinary action."
 - 15. Section 7125.4, subdivision (a) of the Code states:

"The filing of the exemption certificate prescribed by this article that is false, or the employment of a person subject to coverage under the workers' compensation laws after the filing of an exemption certificate without first filing a Certificate of Workers' Compensation Insurance or Certification of Self-Insurance in accordance with the provisions of this article, or the employment of a person subject to coverage under the workers' compensation laws without

Section 7161 of the Code provides, in pertinent part:

"It is a misdemeanor for any person to engage in any of the following acts, the commission of which shall be cause for disciplinary action against any licensee or applicant:

"(b) Making any substantial misrepresentation in the procurement of a contract for a home improvement or other work of improvement or making any false promise of character likely to influence, persuade or induce any person to enter into such a contract.

COSTS

Section 125.3 of the Code provides, in pertinent part, that the Board may request the 20. administrative law judge to 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL BACKGROUND

Grand Avenue Project

- On or about August 24, 2015, R.R.1 entered into a contract with Respondent to 21. construct an addition, build a new foundation, and upgrade the electrical and plumbing at R.R.'s residence on Grand Avenue in Santa Rosa. The contract amount was \$73,087.50. The contract falsely stated that Respondent had a valid workers' compensation insurance policy.
- Respondent began work on the project in or around the end of July or early August 22. 2015. Respondent had numerous employees working on the project for approximately seven (7) months. Respondent did not maintain workers' compensation insurance coverage for any of Respondent's employees between July 10, 2015, and November 16, 2015, or anytime after November 29, 2015.

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¹ The names of individuals identified in this Accusation by initials will be disclosed pursuant to a proper discovery request.

- d. Respondent did not properly install certain electrical fixtures.
- 31. As a result of Respondent's poor workmanship and abandonment of the project, R.R. was required to incur additional expense to complete and correct the work Respondent performed. R.R. ultimately suffered a financial injury of \$115,392.46 as a result of Respondent's conduct.

Grosse Avenue and Peterson Lane Projects

- 32. On or about October 28, 2015, Respondent and Brilliant Corners (B.C.), a non-profit organization, signed a contract for Respondent to perform remodeling work on a home on Grosse Avenue in Santa Rosa for \$292,441.22. Respondent's license number was listed on the contract under the line for Respondent's signature. The contract falsely stated that Respondent had an active workers' compensation insurance policy.
- 33. On or about November 20, 2015, B.C. issued Respondent two checks totaling \$178,150.48 for the Grosse Avenue project. That amount was paid to Respondent as a retainer, down payment, and progress payment. Respondent began work on the project on the same day, and had numerous workers on the jobsite.
- 34. On or about December 22, 2015, Respondent provided B.C. with a proposal to perform remodeling work on a second home on Peterson Lane in Santa Rosa for \$288,009.36. The proposal listed Respondent's license number. On the same day, Respondent and B.C. signed a contract for Respondent to perform the work. Respondent's license number was listed on the contract under the line for Respondent's signature.
- 35. On or about December 29, 2015, B.C. issued Respondent two checks totaling \$159,433.00 for the Peterson Lane project. That amount was paid to Respondent as a retainer, down payment, and progress payment. Respondent began work on the project in or around late December 2015, and had numerous workers on the jobsite.
- 36. For both the Grosse Avenue and Peterson Lane projects, Respondent provided B.C. with a certificate of liability insurance stating that Respondent had a valid workers' compensation insurance policy effective November 16, 2015, with an expiration date of January 1, 2016. Respondent's workers' compensation insurance policy was canceled effective November 29, 2015.

- 37. Respondent's license was suspended from September 21, 2015, to November 15, 2015, and again between November 29, 2015, and March 29, 2016, during which time Respondent worked on both the Grosse Avenue and Peterson Lane projects.
- 38. Respondent abandoned both projects in or around March 2016 before they were completed. At the time of abandonment, B.C. had paid Respondent \$233,952.96 for the Grosse Avenue project and \$227,254.00 for the Peterson Lane project. As a result of the abandonment, B.C. was required to hire new contractors to complete and correct the work Respondent performed. B.C. suffered a financial injury of \$280,053.68 on the Grosse Avenue project, and \$285,890.25 on the Peterson Lane project.

Gretchen Court Project

- 39. On or about October 27, 2015, S.M., the owner of a home on Gretchen Court in Rohnert Park, received a phone call from Josh Knaup (Knaup), one of Respondent's employees, to discuss remodeling and siding work that S.M. needed done at the home. Later that day, Knaup went to S.M.'s home to discuss the work further. At the time S.M. spoke with Knaup, Knaup was not a registered home improvement salesperson.
- 40. On or about October 28, 2015, Knaup provided S.M. with a proposal to perform the remodeling and siding work at S.M.'s home. The proposal amount was \$44,066.95. Respondent's license number was listed on the proposal. On or about October 30, 2015, S.M. wrote a check to Respondent in the amount of \$17,626.78, which Respondent deposited the same day.
- 41. On or about November 3, 2015, Respondent and S.M. entered into a written contract for Respondent to perform the remodeling and siding work for \$52,011.54. The contract listed Respondent's license number. The contract also falsely stated that Respondent had an active workers' compensation insurance policy.
- 42. Respondent began work on the project on or about November 3, 2015. Respondent did not pull any permits for the project, even though permits were required for the work Respondent performed. Respondent had numerous employees working on the project.

- 43. On or about November 5, 2015, S.M. wrote Respondent a check for \$23,982.46, which Respondent deposited the same day.
- 44. Respondent's license was suspended from September 21, 2015, to November 15, 2015, and again between November 29, 2015, and March 29, 2016, during which time Respondent worked on the project.
- 45. Respondent abandoned the project in or around March or April 2016 before the work was completed. At the time of abandonment, S.M. had paid Respondent \$49,609.24. As a result of Respondent's abandonment of the project, S.M. sought out another contractor to complete and correct the work Respondent performed. As a result of Respondent's abandonment of the project, S.M. suffered a financial injury of \$9,527.23.
 - 46. Respondent's work on the project did not meet industry standards as follows:
 - a. Respondent did not properly install a lower shower head assembly.
 - b. Respondent installed a shower valve in an improper location.
 - c. Respondent did not properly install a drain line.
 - d. Respondent did not complete all caulking in the bathrooms.
 - e. Respondent did not make necessary repairs to a gate post.

Magnolia Avenue Project

- 47. In or around November 2015, R.B. contacted Respondent to discuss kitchen remodeling work at R.B.'s residence on Magnolia Avenue in Rohnert Park. On or about November 11, 2015, Respondent emailed R.B. and his wife, D.B., a contract for the work. The contract amount was \$34,183.50. The contract listed Respondent's license number. The contract also falsely stated that Respondent had an active workers' compensation insurance policy.
- 48. Respondent's license was suspended from September 21, 2015, to November 15, 2015.
- 49. On or about November 19, 2015, D.B. wrote Respondent a check for \$13,000.00 for the remodeling work. Respondent deposited the check on the following day, November 20, 2015.
- 50. Respondent never began work on the project. Nor did Respondent refund any portion of the \$13,000.00 R.B. and D.B. paid Respondent.

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Respondent's Labor Code Violations

51. In or around January 2016, the Labor Commissioner's Office performed an investigation and audit of Respondent based on allegations that Respondent had not paid wages to Respondent's employees. The investigation and audit determined that Respondent violated various Labor Code provisions due to Respondent's failure to pay wages to its employees, Respondent's contracting without a license, and Respondent's failure to maintain workers' compensation insurance for Respondent's employees. As a result of these violations, the Labor Commissioner's Office issued citations to Respondent, ordered Respondent to pay \$154,640.96 in back-pay to its employees, and assessed civil penalties against Respondent totaling \$592,267.50.

FIRST CAUSE FOR DISCIPLINE

(Willful and Intentional Misuse of a Contractor's License Number)

52. Respondent's license is subject to disciplinary action under sections 7090 and 7027.3 of the Code, in that Respondent willfully and intentionally used, with the intent to defraud, a contractor's license number that did not correspond to the number on a currently valid contractor's license held by Respondent. The circumstances of this conduct are set forth above in paragraphs 21-50.

SECOND CAUSE FOR DISCIPLINE

(Abandonment)

53. Respondent's license is subject to disciplinary action under sections 7090 and 7107 of the Code, in that Respondent abandoned various construction projects without legal excuse. The circumstances of this conduct are set forth above in paragraphs 21-46.

THIRD CAUSE FOR DISCIPLINE

(Diversion of and/or Failure to Account for Funds)

54. Respondent's license is subject to disciplinary action under sections 7090 and 7108 of the Code, in that Respondent diverted funds received for prosecution or completion of a construction project, and/or failed substantially to account for the application or use of such funds on the construction project. The circumstances of this conduct are set forth above in paragraphs 21-38 and 47-50.

FOURTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

55. Respondent's license is subject to disciplinary action under sections 7090 and 7109, subdivision (a) of the Code, in that Respondent departed in material respects from accepted trade standards for good and workmanlike construction. The circumstances of this conduct are set forth above in paragraphs 21-31 and 39-46.

FIFTH CAUSE FOR DISCIPLINE

(Willful and/or Deliberate Disregard of Building Laws)

56. Respondent's license is subject to disciplinary action under sections 7090 and 7110 of the Code, in that Respondent willfully and/or deliberately disregarded and violated state and/or local building laws. The circumstances of this conduct are set forth above in paragraphs 39-46.

SIXTH CAUSE FOR DISCIPLINE

(Willful and/or Deliberate Violations of the Labor Code)

57. Respondent's license is subject to disciplinary action under sections 7090 and 7110.5 of the Code, in that Respondent engaged in willful and/or deliberate violations of the Labor Code. The circumstances of this conduct are set forth above in paragraph 51.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Complete Project for Contract Price)

58. Respondent's license is subject to disciplinary action under sections 7090 and 7113 of the Code, in that Respondent failed in a material respect to complete construction projects for the price stated in the contracts for those projects. The circumstances of this conduct are set forth above in paragraphs 21-46.

EIGHTH CAUSE FOR DISCIPLINE

(Commission of Willful and/or Fraudulent Acts)

59. Respondent's license is subject to disciplinary action under sections 7090 and 7116 of the Code, in that Respondent committed willful and/or fraudulent acts as a contractor that resulted in substantial injury to another. The circumstances of this conduct are set forth above in paragraphs 21-50.

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NINTH CAUSE FOR DISCIPLINE

(Acting as a Contractor Under a Suspended License)

60. Respondent's license is subject to disciplinary action under sections 7090 and 7117.5, subdivision (b) of the Code, in that Respondent acted in the capacity of a contractor under a suspended license. The circumstances of this conduct are set forth above in paragraphs 21-50.

TENTH CAUSE FOR DISCIPLINE

(Failure to Provide Workers' Compensation Insurance Coverage)

61. Respondent's license is subject to disciplinary action under sections 7090 and 7125.4, subdivision (a) of the Code, in that Respondent (a) employed persons subject to coverage under the workers' compensation laws after the filing of an exemption certificate without first filing a Certificate of Workers' Compensation Insurance or Certification of Self-Insurance; and/or (b) employed persons subject to coverage under the workers' compensation laws without maintaining coverage for those persons. The circumstances of this conduct are set forth above in paragraphs 21-46.

ELEVENTH CAUSE FOR DISCIPLINE

(Employing an Unregistered Home Improvement Salesperson)

62. Respondent's license is subject to disciplinary action under sections 7090 and 7154, subdivision (d) of the Code, in that Respondent employed a person to sell home improvement contracts while that person was not registered by the Registrar as a home improvement salesperson. The circumstances of this conduct are set forth above in paragraphs 39-46.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Sign Change Orders)

63. Respondent's license is subject to disciplinary action under sections 7090 and 7159, subdivision (d) of the Code, in that change orders applicable to one of Respondent's home improvement contracts were not signed by the parties to the contract prior to the commencement of work covered by the change orders. The circumstances of this conduct are set forth above in paragraphs 21-31.

THIRTEENTH CAUSE FOR DISCIPLINE

(Charging an Excessive Down Payment)

64. Respondent's license is subject to disciplinary action under sections 7090 and 7159.5, subdivision (a)(3) of the Code, in that Respondent charged a down payment that exceeded one thousand dollars and ten percent of the contract amount. The circumstances of this conduct are set forth above in paragraphs 32-38.

FOURTEENTH CAUSE FOR DISCIPLINE

(Requesting and/or Accepting Payment Exceeding the Value of Work Performed)

65. Respondent's license is subject to disciplinary action under sections 7090 and 7159.5, subdivision (a)(5) of the Code, in that Respondent requested and/or accepted payment that exceeded the value of the work performed or material delivered. The circumstances of this conduct are set forth above in paragraphs 39-50.

FIFTEENTH CAUSE FOR DISCIPLINE

(Making a Substantial Misrepresentation in the Procurement of a Contract)

66. Respondent's license is subject to disciplinary action under sections 7090 and 7161 of the Code, in that Respondent made substantial misrepresentations in the procurement of home improvement contracts and/or made a false promise of character likely to influence, persuade, or induce a person to enter into those contracts. The circumstances of this conduct are set forth above in paragraphs 21-50.

DISCIPLINE CONSIDERATIONS

67. To determine the degree of discipline, if any, to be imposed on Respondent,
Complainant alleges that on or about April 21, 2016, Complainant issued Citation Number
2-2015-2688 to Respondent for violating the following Code sections: 7125.4, subdivision (a)
(failing to secure workers' compensation insurance coverage for employees); and 7159,
subdivision (d) (failing to provide a written contract prior to the commencement of work).
Respondent was assessed a \$1,500.00 civil penalty. That Citation is now final and is incorporated by reference as if fully set forth in this Accusation.

OTHER MATTERS

- 68. Pursuant to sections 7097 and 7098 of the Code, if License Number 783179 issued to Respondent is suspended or revoked, the Registrar may suspend or revoke, without notice, any other license issued in the name of Tony Joseph Goodwin or for which Tony Joseph Goodwin furnished the qualifying experience and appearance.
- 69. Pursuant to section 7121 of the Code, if discipline is imposed on License Number 783179 issued to Respondent, Tony Joseph Goodwin shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual, or member of the personnel of record of a licensee of any licensee during the time discipline is imposed, and any licensee which employs, elects, or associates Tony Joseph Goodwin shall be subject to disciplinary action.
- 70. Pursuant to Section 7121.5 of the Code, if discipline is imposed on License Number 783179 issued to Respondent, Tony Joseph Goodwin shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of any licensee during the time discipline is imposed, whether or not he had knowledge of or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects, or associates Tony Joseph Goodwin shall be subject to disciplinary action.
- 71. Tony Joseph Goodwin, while serving as Respondent's owner, had knowledge of or participated in the acts or omissions which constitute cause for discipline against Respondent.
- 72. Government Code section 11519, subdivision (d) provides that specified terms of probation may include an order of restitution, and 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.
- 73. Section 7095 of the Code provides, in pertinent part, that the Registrar in making its order 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 its 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.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Registrar of Contractors issue a decision:

- 1. Revoking or suspending Contractor License Number 783179 issued to Goodwin Millworks, Tony Joseph Goodwin, Sole Owner;
- 2. Prohibiting Tony Joseph Goodwin from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on License Number 783179 issued to Goodwin Millworks, Tony Joseph Goodwin, Sole Owner;
- 3. Revoking or suspending any other license for which Tony Joseph Goodwin is furnishing the qualifying experience or appearance;
- 4. Ordering restitution of all damages according to proof suffered by R.R., B.C., S.M., R.B., and D.B. as a condition of probation in the event probation is ordered;
- 5. Ordering restitution of all damages suffered by R.R., B.C., S.M., R.B., and D.B. as a result of Tony Joseph Goodwin's conduct as a contractor, as a condition of restoration of License Number 783179 issued to Goodwin Millworks, Tony Joseph Goodwin, Sole Owner;
- 6. Ordering Goodwin Millworks, Tony Joseph Goodwin, Sole Owner to pay the Registrar of Contractors its costs in the investigation and enforcement of this case according to proof at the hearing pursuant to Business and Professions Code section 125.3;
- 7. Ordering Goodwin Millworks, Tony Joseph Goodwin, Sole Owner to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each;
 - 8. Taking such other and further action as deemed necessary and proper.

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DATED: 02/14/18 WOOD ROBINSON Enforcement Supervisor I Contractors' State License Board Department of Consumer Affairs FEB 1 4 2018 State of California
Complainant CSLB DSS OK2017901636 90903257.doc