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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. N2017-426

14 **AJI CONSTRUCTION INC.**
15 **4746 Granada Drive**
Santa Rosa, CA 95404

A C C U S A T I O N

16 **ANTHONY JOSEPH IRVIN JR.**
17 **(RMO/CEO/PRES)**

18 **Contractor's License No. 869503, B**

Respondent;

19 **IRVIN CONSTRUCTION AND DESIGN**
20 **4746 Granada Drive**
21 **Santa Rosa, CA 95404**

22 **ANTHONY JOSEPH IRVIN JR. (OWNER)**

23 **Contractor's License No. 1033948, B**

24 Affiliate.

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1 Complainant alleges:

2 **PARTIES**

3 1. Wood Robinson (Complainant) brings this Accusation solely in his official capacity
4 as the Enforcement Supervisor I of the Contractors' State License Board, Department of
5 Consumer Affairs.

6 2. On or about December 15, 2005, the Registrar of Contractors issued Contractor's
7 License Number 869503, B, to Anthony Joseph Irvin, Jr., RMO/CEO/PRES. (Respondent). The
8 Contractor's License will expire on February 12, 2019, unless renewed. On or about December
9 12, 2017, the Registrar of Contractors issued Contractor's License Number 1033948, B, to
10 Respondent Anthony Joseph Irvin, Jr., Owner. The Contractor's License will expire on
11 December 31, 2019, unless renewed.

12 **JURISDICTION**

13 3. This Accusation is brought before the Registrar of Contractors (Registrar) for the
14 Contractors' State License Board, Department of Consumer Affairs, under the authority of the
15 following laws. All section references are to the Business and Professions Code unless otherwise
16 indicated.

17 4. Section 118(b) of the Business and Professions Code (Code) provides, in pertinent
18 part, that the expiration of a license shall not deprive the registrar of jurisdiction to proceed with a
19 disciplinary action during the period within which the license may be renewed, restored, reissued
20 or reinstated. Under Code section 7076.1, the registrar may reinstate a cancelled license if the
21 licensee pays all of the fees and meets all of the qualifications and requirements for obtaining an
22 original license.

23 5. Section 7076.5 of the Code provides, in pertinent part, that the inactive status of a
24 license shall not bar any disciplinary action for violating provisions of the Contractor's State
25 License Law (Bus. & Prof. Code, § 7000, et seq.).

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STATUTORY PROVISIONS

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2 6. Section 7107 of the Code provides that “[a]bandonment without legal excuse of any
3 construction project or operation engaged in or undertaken by the licensee as a contractor
4 constitutes a cause for disciplinary action.”

5 7. Section 7109 of the Code provides that:

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

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

15 8. Section 7110 of the Code provides, in pertinent part, that:

16 Willful or deliberate disregard and violation of the building laws of the state, or of any
17 political subdivision thereof constitutes a cause for disciplinary action.

18 9. Section 7113 of the Code provides that:

19 “Failure in a material respect on the part of a licensee to complete any construction project
20 or operation for the price stated in the contract for such construction project or operation or in any
21 modification of such contract constitutes a cause for disciplinary action.”

22 10. Section 7159 of the Code provides, in pertinent part, that:

23 (a) (1) This section identifies the projects for which a home improvement contract is
24 required, outlines the contract requirements, and lists the items that shall be included in the
25 contract, or may be provided as an attachment.

26

27 (3) This section does not apply to the sale, installation, and servicing of a fire alarm
28 sold in conjunction with an alarm system, as defined in Section 7590.1, if all costs attributable to

1 making the fire alarm system operable, including sale and installation costs, do not exceed five
2 hundred dollars (\$500), and the licensee complies with the requirements set forth in Section
3 7159.9.

4 ...

5 (d) A home improvement contract and any changes to the contract shall be in writing and
6 signed by the parties to the contract prior to the commencement of work covered by the contract
7 or an applicable change order. . . .

8 11. Section 7161 of the Code provides, in pertinent part, that:

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

11

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

15 **REGULATORY PROVISIONS**

16 12. Santa Rosa Municipal Code section 18-04.015 adopts the California Building
17 Standards Code governing permits.

18 13. California Code of Regulations, title 24, section 105.1, (Building Standards Code),
19 provides: "Any owner or authorized agent who intends to construct, enlarge, alter, repair, move,
20 demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter,
21 repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the
22 installation of which is regulated by this code, or to cause any such work to be done, shall first
23 make application to the building official and obtain the required permit."

24 **COST RECOVERY/RESTITUTION**

25 14. Section 125.3 of the Code provides, in pertinent part, that the registrar may request
26 the administrative law judge to direct a licentiate found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

1 written contract was drafted for the door replacement. B.V. then asked Respondent to remodel
2 the bathroom, and Respondent agreed. Respondent did not pull permits for the work, and did not
3 provide a written contract for the work. Respondent removed drywall in the bathroom, ordered a
4 vanity, moved electrical, and did plumbing work. On or about March 23, 2017, Respondent
5 produced an invoice for the bathroom work totaling \$6,853.00. B.V. paid the invoice the day she
6 received it.

7 20. On or about April 9, 2017, B.V. fired Respondent. B.V. hired another contractor to
8 complete and correct the work performed by Respondent at an additional cost of \$212.02 for the
9 permit, and \$3,440.00 for the additional work. Respondent's work failed to meet industry
10 standards in that he performed improper electrical wiring, and failed to ground the electrical
11 work, the toilet flange was not sealed properly to the floor, and plumbing in the bathroom had
12 slip-on fittings which were loose.

13 21. B.V. suffered financial injury of \$3,652.02 to complete the project. Total payments
14 made to Respondent by B.V. were \$7,053.00, the cost to correct was \$3,440.00, and the permit
15 cost was \$212.02, for a sub-total of \$10,705.02 of funds paid by B.V. This sub-total is \$3,652.02
16 more than the total paid price of \$7,053.00.

17 A.D. PROJECT

18 22. On or about June 26, 2016, A.D. contracted with Respondent for a near full remodel
19 of a residence. Remodeling included a kitchen remodel, bathroom remodel, new wood floors
20 throughout the home, interior paint throughout the home, enclosure of front entry, exterior
21 wheelchair ramps, exterior concrete pathways and rear deck. The contract amount totaled
22 \$180,672.06. Respondent collected a \$30,000.00 down payment.

23 23. The contract states it is inclusive of "materials and labor." But, the contract also
24 describes some tasks to be performed as "schedule" and/or "install." A.D. believed the contract
25 included all materials and labor, but in fact, Respondent required A.D. to pay vendors directly for
26 items such as cabinets, wood flooring, and painting. The additional materials and/or labor
27 amounted to \$51,568.85 above the contract price.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Meet Industry Standards)**

3 29. Respondent is subject to discipline under Code section 7109, in that on the A.D.,
4 R.C., and B.V. projects, Respondent failed to meet industry standards as described above in
5 paragraphs 17, 20, and 25 and incorporated herein.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Excessive Down Payment)**

8 30. Respondent is subject to discipline under Code section 7159.5(a)(3), in that on the
9 A.D. and R.C. projects, Respondent collected down payments in excess of 10% of the contract
10 price as described above in paragraphs 16 and 22 and incorporated herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(No Written Change Order)**

13 31. Respondent is subject to discipline under Code section 7159(d), in that on the A.D.
14 and R.C. projects, Respondent did not provide written change orders when the scope of work
15 changed during the project as described above in paragraphs 18 and 27 and incorporated herein.

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17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Misrepresentation of Facts to Procure a Contract)**

19 32. Respondent is subject to discipline under Code section 7159(b), in that on the A.D.
20 project, Respondent misrepresented which materials and/or labor was included in the contract
21 price, and later told A.D. that several items were not included in the original contract price, as
22 described above in paragraphs 23 and 26-27 and incorporated herein.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Abandonment)**

25 33. Respondent is subject to discipline under Code section 7107, in that on the A.D.
26 project, Respondent abandoned the work and failed to complete it as described above in
27 paragraph 24 and incorporated herein.

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1 7. Ordering Respondent to provide the Registrar with a listing of all contracting projects
2 in progress and the anticipated completion date of each; and

3 8. Taking such other and further action as deemed necessary and proper.
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6 DATED:

3/14/19

FILED

MAR 14 2019

CSLB DSS

Wood Robinson
WOOD ROBINSON
Enforcement Supervisor I
Contractors' State License Board
Department of Consumer Affairs
State of California
Complainant *WR*

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