

1 XAVIER BECERRA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 MICHAEL B. FRANKLIN
Deputy Attorney General
4 State Bar No. 136524
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3455
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. N2019-298

13 **PLUMBER HERO, INC., DBA ROOTER**
14 **HERO PLUMBING**
15 **WILLIAM JOHN BEYERMANN, RME**
16 **JOHN CLINTON BERGERON, OFFICER**
17 **JOHN AKHOIAN, OFFICER**
18 **TAMAR AKHOIAN, OFFICER**
11150 Sepulveda Blvd., Suite 2A
19 Mission Hills, CA 91345

ACCUSATION

18 Contractor's License No. 1028886, A, B, C36,
19 C42

20 **WILLIAM JOHN BEYERMANN, DBA**
21 **MR. ROOTER PLUMBING**
17409 Martha St.
22 Encino, CA 91316

23 Contractor's License No. 607668, C36

24 **JOHN CLINTON BERGERON**
269 W. Montecito Avenue
25 Sierra Madre, CA 91024

26 Home Improvement Salesperson
27 Registration No. 113990 SP

28 Respondents.

PARTIES

1. Wood Robinson (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 12, 2017, the Registrar of Contractors (Registrar) issued Contractor's License Number 1028886 in Classifications A (General Engineering), B (General Contracting), C36 (Plumbing) and C42 (Sanitation System) to Plumber Hero, Inc., dba Rooter Hero Plumbing (Respondent Plumber Hero). 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, 2021, unless renewed. At all times referenced herein, William John Beyermann (Respondent Beyermann) was the responsible managing employee (RME). At all times referenced herein beginning on June 21, 2018, John Clinton Bergeron, Officer (Respondent Bergeron) was an officer of Respondent Plumber Hero.

3. John Akhoian, also known as Oganek Akhoian (Respondent John Akhoian) is listed as the Chief Executive Officer of Respondent Plumber Hero in the records of the California Secretary of State, effective March 19, 2020. However, Respondent Plumber Hero has not disclosed to the Registrar that Respondent John Akhoian occupies this position. Therefore, Respondent John Akhoian is not a member of the personnel of record for Respondent Plumber Hero.

4. Tamar Akhoian (Respondent Tamar Akhoian) is listed as the Chief Financial Officer of Respondent Plumber Hero in the records of the California Secretary of State, effective March 19, 2020. However, Respondent Plumber Hero has not disclosed to the Registrar that Respondent Tamar Akhoian occupies this position. Therefore, Respondent Tamar Akhoian is not a member of the personnel of record for Respondent Plumber Hero.

5. On or about December 7, 1990, the Registrar issued Contractor License Number 607668 in Classification C36 (Plumbing) to William John Beyermann, dba Mr. Rooter Plumbing (Respondent Beyermann). The Contractor's License expired on December 31, 2020, unless renewed.

6. On or about June 11, 2018, the Registrar issued Home Improvement Salesperson (H.I.S.) Registration No. 113990 SP to John Clinton Bergeron (Respondent John Clinton Bergeron). The H.I.S. registration was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2022, unless renewed.

JURISDICTION

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Section 7121 of the Code states:

A person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a partner, officer, director, manager, or associate of any

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

7 13. Section 7121.5 of the Code states:

8 A person who was the qualifying individual on a revoked license, or of a
9 license under suspension, or of a license that was not renewed while it was under
10 suspension, shall be prohibited from serving as an officer, director, associate, partner,
11 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.

12 STATUTORY PROVISIONS

13 14. Section 7068 of the Code states, in pertinent part:

14 (a) The board shall require an applicant to show the degree of knowledge and
15 experience in the classification applied for, and the general knowledge of the
16 building, safety, health, and lien laws of the state and of the administrative principles
of the contracting business that the board deems necessary for the safety and
protection of the public.

17 (b) An applicant shall qualify in regard to his or her experience and knowledge
18 in one of the following ways:

19 (1) If an individual, he or she shall qualify by personal appearance or by
20 the appearance of his or her responsible managing employee who is qualified for the
same license classification as the classification being applied for.

21 (2) If a partnership or a limited partnership, it shall qualify by the
22 appearance of a general partner or by the appearance of a responsible managing
employee who is qualified for the same license classification as the classification
being applied for.

23 (3) If a corporation, or any other combination or organization, it shall
24 qualify by the appearance of a responsible managing officer or responsible managing
employee who is qualified for the same license classification as the classification
being applied for.

25 (4) If a limited liability company, it shall qualify by the appearance of a
26 responsible managing officer, a responsible managing manager, responsible
27 managing member, or a responsible managing employee who is qualified for the
same license classification as the classification being applied for.

28

15. Section 7068.1, subdivision (a), of the Code states, in pertinent part:

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.

16. Section 7083 of the Code states:

(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.

(b) Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

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

17. Section 7096 of the Code states:

For the purposes of this chapter, the term "licensee" shall include an individual, partnership, corporation, limited liability company, joint venture, or any combination or organization licensed under this chapter, and shall also include any named responsible managing officer, responsible managing manager, responsible managing member, or personnel of that licensee whose appearance has qualified the licensee under the provisions of Section 7068.

18. 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.

19. Section 7110 of the Code states:

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

1 20. Section 7116 of the Code states:

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

5 21. Section 7117 of the Code states:

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

11 21. Section 7122 of the Code states:

12 The performance by any individual, partnership, corporation, limited liability
13 company, firm, or association of an act or omission constituting a cause for
14 disciplinary action, likewise constitutes a cause for disciplinary action against a
15 licensee other than the individual qualifying on behalf of the individual or entity, if
16 the licensee was a partner, officer, director, manager, or associate of that individual
17 partnership, corporation, limited liability company, firm, or association at the time the
18 act or omission occurred, and had knowledge of or participated in the prohibited ac or
19 omission.

20 22. Section 7122.5 of the Code states:

21 The performance by an individual, partnership, corporation, limited liability
22 company, firm, or association of an act or omission constituting a cause for
23 disciplinary action, likewise constitutes a cause for disciplinary action against a
24 licensee who at the time that the act or omission occurred was the qualifying
25 individual of that individual, partnership, corporation, limited liability company, firm,
26 or association, whether or not he or she had knowledge of or participated in the
27 prohibited act or omission.

28 23. Section 7159 of the Code states:

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

...

(a)(5) Failure by the licensee, his or her agent or salesperson, or by a
person subject to be licensed under this chapter, to provide the specified
information, notices, and disclosures in the contract, or to otherwise fail to
comply with any provision of this section, is cause for discipline.

...

(c) In addition to the specific requirements listed under this section,
every home improvement contract and any person subject to licensure under
this chapter or his or her agent or salesperson shall comply with all of the
following:

1 ...
2 (d) A home improvement contract and any changes to the contract shall be in
3 writing and signed by the parties to the contract prior to the commencement of work
4 covered by the contract or an applicable change order and, except as provided in
5 paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of
6 the following:

7 ...
8 (e) Except as provided in paragraph (8) of subdivision (a) of Section
9 7159.5, all of the following notices shall be provided to the owner as part of the
10 contract form as specified or, if otherwise authorized under this subdivision,
11 may be provided as an attachment to the contract:

12 ...
13 (4) A notice with the heading "Mechanics Lien Warning" written as
14 follows:

15 "MECHANICS LIEN WARNING:

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

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

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

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

You will not get Preliminary Notices from your prime contractor or from
laborers who work on your project. The law assumes that you already know
they are improving your property.

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

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

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

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

11 (5) The following notice shall be provided in at least 12-point typeface:

12 "Information about the Contractors' State License Board (CSLB): CSLB
13 is the state consumer protection agency that licenses and regulates construction
14 contractors. Contact CSLB for information about the licensed contractor you
15 are considering, including information about disclosable complaints,
16 disciplinary actions, and civil judgments that are reported to CSLB.

17 Use only licensed contractors. If you file a complaint against a licensed
18 contractor within the legal deadline (usually four years), CSLB has authority to
19 investigate the complaint. If you use an unlicensed contractor, CSLB may not
20 be able to help you resolve your complaint. Your only remedy may be in civil
21 court, and you may be liable for damages arising out of any injuries to the
22 unlicensed contractor or the unlicensed contractor's employees.

23 For more information:

24 Visit CSLB's Internet Web site at www.cslb.ca.gov

25 Call CSLB at 800-321-CSLB (2752)

26 Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

27 (6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day
28 Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph
(7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6
(commencing with Section 7590)), provided the alarm company licensee
complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as
applicable.

(B) "Three-Day Right to Cancel.

You, the buyer, have the right to cancel this contract within three business
days. You may cancel by e-mailing, mailing, faxing, or delivering a written
notice to the contractor at the contractor's place of business by midnight of the
third business day after you received a signed and dated copy of the contract

1 that includes this notice. Include your name, your address, and the date you
2 received the signed copy of the contract and this notice.

3 If you cancel, the contractor must return to you anything you paid within
4 10 days of receiving the notice of cancellation. For your part, you must make
5 available to the contractor at your residence, in substantially as good condition
6 as you received them, goods delivered to you under this contract or sale. Or,
7 you may, if you wish, comply with the contractor's instructions on how to
8 return the goods at the contractor's expense and risk. If you do make the goods
9 available to the contractor and the contractor does not pick them up within 20
10 days of the date of your notice of cancellation, you may keep them without any
11 further obligation. If you fail to make the goods available to the contractor, or if
12 you agree to return the goods to the contractor and fail to do so, then you
13 remain liable for performance of all obligations under the contract."

14 (C) The "Three-Day Right to Cancel" notice required by this paragraph
15 shall comply with all of the following:

16 (i) The text of the notice is at least 12-point boldface type.

17 (ii) The notice is in immediate proximity to a space reserved for the
18 owner's signature.

19 (iii) The owner acknowledges receipt of the notice by signing and dating
20 the notice form in the signature space.

21 (iv) The notice is written in the same language, e.g., Spanish, as that
22 principally used in any oral sales presentation.

23 (v) The notice may be attached to the contract if the contract includes, in
24 at least 12-point boldface type, a checkbox with the following statement: "The
25 law requires that the contractor give you a notice explaining your right to
26 cancel. Initial the checkbox if the contractor has given you a "Notice of the
27 Three-Day Right to Cancel."

28 (vi) The notice shall be accompanied by a completed form in duplicate,
captioned "Notice of Cancellation," which also shall be attached to the
agreement or offer to purchase and be easily detachable, and which shall
contain the following statement written in the same language, e.g., Spanish, as
used in the contract:

"Notice of Cancellation"

enter date of transaction/

(Date)

"You may cancel this transaction, without any penalty or obligation,
within three business days from the above date.

If you cancel, any property traded in, any payments made by you under
the contract or sale, and any negotiable instrument executed by you will be

1 returned within 10 days following receipt by the seller of your cancellation
2 notice, and any security interest arising out of the transaction will be canceled.

3 If you cancel, you must make available to the seller at your residence, in
4 substantially as good condition as when received, any goods delivered to you
5 under this contract or sale, or you may, if you wish, comply with the
6 instructions of the seller regarding the return shipment of the goods at the
7 seller's expense and risk.

8 If you do make the goods available to the seller and the seller does not
9 pick them up within 20 days of the date of your notice of cancellation, you may
10 retain or dispose of the goods without any further obligation. If you fail to make
11 the goods available to the seller, or if you agree to return the goods to the seller
12 and fail to do so, then you remain liable for performance of all obligations
13 under the contract."

14 To cancel this transaction, mail or deliver a signed and dated copy of this
15 cancellation notice, or any other written notice, or send a telegram to
16 _____/name of seller/at _____/address of seller's place of
17 business/not later than midnight of _____.(Date)

18 I hereby cancel this transaction. _____ (Date)

19 _____ (Buyer's signature)

20 24. Section 7159.5 of the Code states:

21 This section applies to all home improvement contracts, as defined in Section
22 7151.2, between an owner or tenant and a contractor, whether a general contractor or
23 a specialty contractor, that is licensed or subject to be licensed pursuant to this
24 chapter with regard to the transaction.

25 (a) Failure by the licensee or a person subject to be licensed under this
26 chapter, or by his or her agent or salesperson to comply with the following provisions
27 is cause for discipline.

28 ...

(3) If a downpayment will be charged, the downpayment may not exceed
one thousand dollars (\$1,000) or 10 percent of the contract amount, whichever is
less.

...

(5) Except for a downpayment, the contractor may neither request nor
accept payment that exceeds the value of the work performed or material delivered.

....

25. Section 7161 of the Code states:

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

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

8 (c) Any fraud in the execution of, or in the material alteration, any
9 contract, trust deed, mortgage, promissory note, or other document incident to a
10 home improvement transaction or other transaction involving a work of
11 improvement.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
COST RECOVERY, RESTITUTION AND OTHER AUTHORITY

26. 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 disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

27. Section 11519 of the Government Code 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.

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
3 manner provided in Section 11505 or has actual knowledge of the decision.

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

7 (g) This section does not preclude an agency from taking immediate action to
8 protect the public interest in accordance with Article 13 (commencing with Section
9 11460.10) of Chapter 4.5.

10 28. Section 143.5, subdivision (b), of the Code states:

11 Any board, bureau, or program within the Department of Consumer Affairs that
12 takes disciplinary action against a licensee or licensees based on a complaint or report
13 that has also been the subject of a civil action and that has been settled for monetary
14 damages providing for full and final satisfaction of the parties may not require its
15 licensee or licensees to pay any additional sums to the benefit of any plaintiff in the
16 civil action.

17 29. Section 7095 of the Code states:

18 The decision may:

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

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

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

27 30. Section 7097 of the Code states:

28 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.

31. 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.

1 32. Section 7102 of the Code states:

2 After suspension of a license upon any of the grounds set forth in this chapter
3 [the Contractors' State License Law], the registrar may reinstate the license upon
4 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.

5 After revocation of a license upon any of the grounds set forth in this chapter,
6 the license shall not be reinstated or reissued and a license shall not be issued to any
7 member of the personnel of the revoked licensee found to have had knowledge of or
8 participated in the acts or omissions constituting grounds for revocation, within a
9 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.

10 The board shall promulgate regulations covering the criteria to be considered
11 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:

12 (a) The gravity of the violation.

13 (b) The history of previous violations.

14 (c) Criminal convictions.

15 When any loss has been reduced to a monetary obligation or debt, however, the
16 satisfaction of the monetary obligation or debt as a prerequisite for the issuance,
17 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,
18 any nonmonetary condition not discharged in a bankruptcy proceeding shall be
19 complied with prior to the issuance, the reissuance, or reinstatement of the license.

20 FACTUAL ALLEGATIONS

21 JOHN AKHOIAN AND TAMAR AKHOIAN

22 33. Respondent John Akhoian became Chief Executive Officer of Respondent Plumber
23 Hero according to the records of the Secretary of State, effective March 19, 2020. Respondent
24 Tamar Akhoian became Chief Financial Officer of Respondent Plumber Hero according to the
25 records of the Secretary of State, effective March 19, 2020. However, Respondent Plumber Hero
26 failed to disclose to the Registrar that Respondent John Akhoian and Respondent Tamar Akhoian
27 became officers.
28

1 34. On May 7, 2018, the Registrar's Decision and Order in Case No. N2015-270 became
2 effective against Akhoian Enterprises Inc., dba Mr. Rooter, Contractor's License No. 705233,
3 Respondent John Akhoian, RMO/CEO/Pres and Respondent Tamar Akhoian, Officer. This
4 Decision ordered that Akhoian Enterprises Inc, dba Mr. Rooter, Contractor's License No. 705233,
5 as well as derivative license TATS Inc., dba Mr. Rooter Plumbing, Contractor's License No.
6 867625, Respondent John Akhoian, RMO/CEO/Pres and Respondent Tamar Akhoian, Officer,
7 and derivative license T A A C Inc., dba Mr. Rooter Plumbing, Contractor's License No. 923906,
8 Respondent Beyermann, RMO, Respondent John Akhoian, CEO/Pres and Respondent Tamar
9 Akhoian, Officer, were each placed on probation for a period of three (3) years and each ordered
10 to post a Disciplinary Bond or cash deposit in the amount of \$45,000.00. The Decision further
11 ordered that any suspension for failing to post a disciplinary bond or cash deposit would cause the
12 probationary period to be automatically extended in time equal to the length of time that the
13 license is not in a clear and active status. Finally, this Decision specifically ordered that
14 Respondent John Akhoian and Respondent Tamar Akhoian were each prohibited from serving as
15 an officer, director, associate, partner or qualifying individual of any license under the Registrar's
16 jurisdiction during the period of probation.

17 35. None of these three (3) licenses, Contractor's License No. 705233, Contractor's
18 License No. 867625, nor Contractor's License No. 923906, ever posted the required disciplinary
19 bond and each remain under bond suspension and thus, technically, still on probation pursuant to
20 the Registrar's Decision and Order.

21 36. Akhoian Enterprises Inc., dba Mr. Rooter, Contractor's License No. 705233, expired
22 on May 31, 2017. Respondent John Akhoian disassociated from this license on March 3, 2017,
23 and Respondent Tamar Akhoian disassociated from this license on January 26, 2017.

24 37. TATS Inc., dba Mr. Rooter Plumbing, Contractor's License No. 867625, expired on
25 November 30, 2017. Respondent John Akhoian disassociated from this license on January 26,
26 2017, and Respondent Tamar Akhoian disassociated from this license on January 26, 2017.

27 38. T A A C Inc., dba Mr. Rooter Plumbing, Contractor's License No. 923906, expired
28 on October 31, 2014. Respondent John Akhoian disassociated from this license on November 29,

1 2017, Respondent Tamar Akhoian disassociated from this license on November 29, 2017, and
2 Respondent Beyermann disassociated from this license on November 29, 2017.

3 39. At all times mentioned herein, Respondent John Akhoian and Respondent Tamar
4 Akhoian have jointly owned Respondent Plumber Hero and Respondent John Akhoian was active
5 in all phases of the business.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Failure to Notify of Personnel Change – Respondent Plumber Hero)**

8 40. Respondent Plumber Hero has subjected its license to disciplinary action under Code
9 section 7083, subdivision (c), in that Respondent Plumber Hero failed to notify the Registrar of
10 changes in the personnel of the corporation within 90 days, as required by Code section 7083,
11 subdivision (a), as set forth above in Paragraphs 33-39.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Act in Accordance with the Personnel of License – Respondent Plumber Hero)**

14 41. Respondent Plumber Hero has subjected its license to disciplinary action under Code
15 section 7117 subdivision (b), in that Respondent Plumber Hero acted as a contractor with
16 personnel that was not in accordance with the registered personnel of the license, as set forth
17 above in Paragraphs 33-39.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Association with Respondent John Akhoian – Respondent Plumber Hero)**

20 42. Respondent Plumber Hero has subjected its license to disciplinary action under Code
21 section 7121 and/or 7121.5, in that Respondent Plumber Hero associated and/or employed John
22 Akhoian in a capacity that was not just a non-supervising bona fide employee, as set forth above
23 in Paragraphs 33-39.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Association with Respondent Tamar Akhoian – Respondent Plumber Hero)**

26 43. Respondent Plumber Hero has subjected its license to disciplinary action under Code
27 section 7121, in that Respondent Plumber Hero associated and/or employed Tamar Akhoian in a
28

1 capacity that was not just a non-supervising bona fide employee, as set forth above in Paragraphs
2 33-39.

3
4 **D.S. PROJECT**

5 44. On or about March 15, 2019, D.S and H.S. contacted Respondent Plumber Hero
6 regarding a sewage leak at the clean out in their front yard in Walnut Creek, California (D.S.
7 project). Respondent Plumber Hero came to the house, inspected the area below the house in the
8 crawl space and informed D.S. and H.S. that there were broken pipes under the home that needed
9 to be replaced. Respondent Plumber Hero presented D.S. and H.S. with six (6) options for repair.

10 45. On or about March 15, 2019, D.S and H.S. selected the least expensive option for
11 \$5,837.00 to repair the sewer line, repair kitchen and laundry, repair shower, repair sewer in front
12 and install a cleanout. This option included a one-year warranty. Respondent Plumber Hero and
13 D.S. and H.S. signed the contract for this option and D.S. and H.S. provided Respondent Plumber
14 Hero a deposit in the amount of \$570.00.

15 46. Based on representations made by Respondent Plumber Hero on March 15, 2019, D.S
16 and H.S. decided to upgrade to the most expensive option, which included replace all drain
17 systems under the home, two-bedrooms, kitchen and laundry, replace the sewer line in front with
18 a trenchless system, a 10-year warranty and free drain cleaning, for \$27,289.11.

19 47. Respondent Plumber Hero required a payment of \$26,169.11 on March 20, 2019,
20 despite the fact that Respondent Plumber Hero had not started work or delivered materials with
21 that value. Work started on March 20, 2019 and was completed on March 25, 2019. Respondent
22 Plumber Hero received a total of \$26,739.11 for the D.S. project.

23 48. The Board's Industry Expert (IE) determined that the work described in the contract
24 with D.S. and H.S. was not necessary. The contract proposed to remove "all cast iron/galvanized
25 sewage removal system located in crawl space," however, there was no cast iron or galvanized
26 piping, but instead Acrylonitrile Butadiene-Styrene (ABS) piping that did not need to be replaced.

27 ///

28 ///

1 49. The Board's IE also determined, notwithstanding the fact that the work was not
2 necessary, that the actual value of replacing the 44 lineal feet of the sewer line would be \$80.00
3 per lineal foot or a total of \$3,520.00.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Exercise Direct Supervision)**

6 50. Respondent Plumber Hero has subjected its license to disciplinary action under Code
7 section 7068.1, in that on the D.S. project, Respondent Beyerman failed to exercise direct
8 supervision and control over the contracting activities on the D.S. project.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Abandonment)**

11 51. Respondent Plumber Hero has subjected its license to disciplinary action under Code
12 section 7107, in that on the D.S. project, Respondent Plumber Hero failed to replace the clean out
13 at the foundation that was called for in the contract.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Intentional Act Causing Harm)**

16 52. Respondent Plumber Hero has subjected its license to disciplinary action under Code
17 section 7116, in that on the D.S. project, Respondent Plumber Hero willfully or fraudulently
18 contracted for work that was not required and overcharged for work performed, causing a
19 substantial injury to D.S. and H.S., as set forth in paragraphs 44-49 above.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Contract Violations)**

22 53. Respondent Plumber Hero has subjected its license to disciplinary action under Code
23 section 7159.5, in that on the D.S. project, Respondent Plumber Hero failed to comply with the
24 following provisions:

25 a. **Subdivision (a)(5):** Respondent Plumber Hero requested and received payment that
26 exceeded the value of work or materials provided to the D.S. project, as set forth above in
27 paragraphs 44-49 above.

28 ///

1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation in Obtaining Contract)**

3 54. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7161(b) in that on the D.S. project, Respondent Plumber Hero made substantial
5 misrepresentations to D.S. in the procurement of the contract as set forth in paragraphs 44-49
6 above.

7 **M.H. PROJECT**

8 55. On or about February 5, 2019, M.H. contacted Respondent to unclog a blocked toilet.
9 Respondent completed the work and gave M.H. a one-month guarantee. Within a few days, the
10 toilet clogged again and M.H. contacted Respondent to fix the problem.

11 56. On or about March 15, 2019, Respondent informed M.H. that the problem was that 13
12 pipes were old and rusty and needed to be replaced. Based on Respondent's representations,
13 M.H. entered into a contract with Respondent for \$13,000.00 (which included her senior
14 discount) to replace the 13 pipes (M.H. project). Respondent failed to provide M.H. a copy of the
15 contract.

16 57. On or about March 18, 2019, Respondent told M.H. that they had to dig up her
17 driveway because the pipe that went to the street would only last maybe a one more year. Based
18 on Respondent's representations, M.H. agreed to do the additional work, which increased the
19 contract price to \$26,347.51. Respondent agreed to assist M.H. to apply for Green Sky financing.
20 Respondent again failed to provide M.H. a copy of the contract.

21 58. Respondent obtained the building permit but did not include the sewer lateral so that
22 portion of the work was never inspected. The permit was finalized on April 4, 2019 and
23 Respondent received a total of \$26,347.51 for the M.H. project.

24 **TENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Exercise Direct Supervision)**

26 59. Respondent Plumber Hero has subjected its license to disciplinary action under Code
27 section 7068.1, in that on the M.H. project, Respondent Beyerman failed to exercise direct
28 supervision and control over the contracting activities on the M.H. project.

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Abandonment)**

3 60. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7107, in that on the M.H. project, Respondent Plumber Hero abandoned the M.H. project
5 leaving the following work to be completed:

6 a. Failed to replace most of the cast iron and galvanized/durham sewage removal system
7 as agreed to in the contract.

8 **TWELFTH CAUSE FOR DISCIPLINE**

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

10 61. Respondent Plumber Hero has subjected its license to disciplinary action under Code
11 section 7109(a), in that on the M.H. project, Respondent willfully departed from accepted trade
12 standards for good and workmanlike construction in the following material respects:

13 a. Failed to install the 4-inch ABS drain properly in that it did not have the required fall of
14 1/8 inch per foot.

15 b. Contract stated to replace all cast iron/galvanized sewage removal system in crawl
16 space, but Respondent attached ABS piping to the existing cast iron and galvanized/durham
17 sewage removal system that was left in the crawl space.

18 c. Contract stated to remove all of the 4 inch damaged clay sewer line. However, the
19 existing sewer line was cast iron, not clay, and did not need to be replaced.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 **(Intentional Act Causing Harm)**

22 62. Respondent Plumber Hero has subjected its license to disciplinary action under Code
23 section 7116, in that on the M.H. project, Respondent Plumber Hero willfully or fraudulently
24 overcharged for work that was not required, causing a substantial injury to M.H. in the amount of
25 \$26,347.51, as set forth above in paragraphs 55-58.

26 ///

27 ///

28 ///

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Provisions of the Contractors' State License Law)**

3 63. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7159, in that on the M.H. project, Respondent Plumber Hero failed to provide a written
5 contract to M.H. that included the required notices and disclosures, as set forth above in
6 paragraphs 55-58.

7 **FIFTEENTH CAUSE FOR DISCIPLINE**

8 **(Contract Violations)**

9 64. Respondent Plumber Hero has subjected its license to disciplinary action under Code
10 section 7159.5, in that on the M.H. project, Respondent Plumber Hero failed to comply with the
11 following provisions:

12 a. **Subdivision (a)(5):** Respondent Plumber Hero requested and received payment that
13 exceeded the value of work or materials provided to the M.H. project, as set forth above in
14 paragraphs 55-58.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

16 **(Misrepresentation in Obtaining Contract)**

17 65. Respondent Plumber Hero has subjected its license to disciplinary action under Code
18 section 7161(b) in that on the M.H. project, Respondent Plumber Hero made substantial
19 misrepresentations to M.H. in the procurement of the contract, as set forth above in paragraphs
20 55-58.

21 **J.W. PROJECT**

22 66. On or about February 19, 2019, J.W. called Respondent Plumber Hero to clear a
23 clogged toilet. Respondent Plumber Hero's technician responded and cleared the toilet.
24 Respondent Plumber Hero's technician then told J.W. that he needed to call his supervisor to run
25 a camera through the sewer pipes to see if there were any other problems. Respondent Plumber
26 Hero's supervisor told J.W. that there were two breaks in her pipes and the main sewer line
27 needed to be replaced.

28 ///

1 67. On or about February 19, 2019, Respondent Plumber Hero's supervisor presented
2 J.W. with six (6) options for repair. J.W. selected option #3 for \$9,616.63, which included
3 replacing the main sewer line from the foundation down to the property line (J.W. Project). This
4 option included a ten-year warranty. J.W. provided Respondent Plumber Hero a deposit in the
5 amount of \$961.66.

6 68. On or about February 20, 2019, Respondent Plumber Hero's supervisor insisted to
7 J.W. that option #1 would be the better choice. Based on representations made by Respondent
8 Plumber Hero's supervisor J.W. agreed to option #1, the most expensive option, which included
9 replace the drain system under the home, replace the sewer line from the foundation to the
10 property line and a 10-year warranty, for \$19,454.55. Respondent Plumber Hero's supervisor
11 asserted to J.W. that this price was a bargain as he had applied a 15% senior discount. J.W.
12 signed the contract for this amount. As J.W. did not have that amount of money available,
13 Respondent Plumber Hero's supervisor provided an application for Synchrony financing for the
14 additional \$18,492.59.

15 69. Respondent Plumber Hero completed the work on the J.W. project on February 20,
16 2019, and was paid the remaining \$18,492.59 through Synchrony financing. The permit was not
17 obtained until February 25, 2019 and was finalized on March 1, 2019. Respondent Plumber Hero
18 received a total of \$19,454.55 for the J.W. project.

19 70. The Board's Industry Expert (IE) determined that the work described in the contract
20 with J.W. was not necessary. The core three-inch cast iron waste system, that Respondent
21 Plumber Hero failed to replace per the contract, was in good condition and did not need
22 replacement. Likewise, some of the existing copper waste line, also not replaced per the contract,
23 was in good condition and did not need replacement.

24 71. The Board's IE also determined that the actual value of replacing approximately 35
25 lineal feet of the sewer line would be \$80.00 per lineal foot or a total of \$2,800.00.

26 ///

27 ///

28 ///

1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Exercise Direct Supervision)**

3 72. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7068.1, in that on the J.W. project, Respondent Beyerman failed to exercise direct
5 supervision and control over the contracting activities on the J.W. project.

6 **EIGHTEENTH CAUSE FOR DISCIPLINE**

7 **(Abandonment)**

8 73. Respondent Plumber Hero has subjected its license to disciplinary action under Code
9 section 7107, in that on the J.W. project, Respondent Plumber Hero failed to replace all the core
10 three-inch cast iron waste system as the contract specified.

11 **NINETEENTH CAUSE FOR DISCIPLINE**

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

13 74. Respondent Plumber Hero has subjected its license to disciplinary action under Code
14 section 7109(a), in that on the J.W. project, Respondent willfully departed from accepted trade
15 standards for good and workmanlike construction in the following material respects:

- 16 a. The ABS had mis-aligned glue and coupling joints.
17 b. Failed to install piping with the required slope.
18 c. Failed to remove extra dirt from the excavation that was piled against the footing so high
19 that it was too close to non-treated structural components.

20 **TWENTIETH CAUSE FOR DISCIPLINE**

21 **(Intentional Act Causing Harm)**

22 75. Respondent Plumber Hero has subjected its license to disciplinary action under Code
23 section 7116, in that on the J.W. project, Respondent Plumber Hero willfully or fraudulently
24 overcharged for work that was not required, causing a substantial injury to J.W. in the amount of
25 \$19,454.55.

26 ///

27 ///

28 ///

1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Misrepresentation in Obtaining Contract)**

3 76. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7161(b) in that on the J.W. project, Respondent Plumber Hero made substantial
5 misrepresentations to J.W. in the procurement of the contract as set forth in paragraphs 66-71
6 above.

7 **B.J.I. PROJECT**

8 77. On or about February 11, 2019, B.J.I. called Respondent Plumber Hero to clear a
9 clogged toilet. Respondent Plumber Hero's technician responded and then requested his
10 supervisor to troubleshoot the problem. Respondent Plumber Hero's supervisor presented B.J.I.
11 with six (6) options for repair. B.J.I. selected the least expensive option for \$3,714.41, which
12 included repair of the damages sections of 4-inch clay sewer system and install a two-way
13 cleanout access with a one-year warranty (B.J.I. project).

14 78. On or about February 13, 2019, Respondent Plumber Hero's supervisor insisted to
15 B.J.I. that the problem would not be solved unless the sewer line in front of the house was
16 replaced. Based on representations made by Respondent Plumber Hero's supervisor B.J.I. agreed
17 to a change order in the amount of \$16,037.34, which included replacing the drain system under
18 the home, replacing the sewer line from the foundation to the property line and a 10-year
19 warranty. Respondent Plumber Hero required a payment of \$15,667.34 on this date, prior to that
20 value of work being completed or materials delivered.

21 79. On or about February 15, 2019, Respondent Plumber Hero's supervisor informed
22 B.J.I. that the water line under the home needed to be replaced and presented another change
23 order to B.J.I. Based on representations made by Respondent Plumber Hero's supervisor, B.J.I.
24 agreed to this second change order in the amount of \$10,704.76. Respondent Plumber Hero
25 required a payment of \$8,963.82, on this date, prior to that value of work being completed or
26 materials delivered.

27 80. Respondent Plumber Hero performed the work on the B.J.I. project between February
28 11, 2019 and February 21, 2019. The permit was obtained on February 13, 2019, but did not

1 include the water line replacement or the plumbing under the floor. The permit for the sewer line
2 was finalized on February 21, 2019. Respondent Plumber Hero received a total of \$26,372.10 for
3 the B.J.I. project.

4 81. The Board's Industry Expert (IE) determined that there were no indications that the
5 work described in the contracts with B.J.I. was necessary.

6 82. The Board's IE also determined that the actual value of replacing approximately 36
7 lineal feet of the sewer line and 26 lineal feet of the water line was a total of \$5,060.00.

8 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

9 **(Failure to Exercise Direct Supervision)**

10 83. Respondent Plumber Hero has subjected its license to disciplinary action under Code
11 section 7068.1, in that on the B.J.I. project, Respondent Beyerman failed to exercise direct
12 supervision and control over the contracting activities on the B.J.I. project.

13 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

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

- 18 a. Failed to utilized proper fittings.
- 19 b. Failed to align joints.
- 20 c. Failed to install drains with the required slope.
- 21 d. Performed unnecessary work in replacing the plumbing system that had no indication
22 that it needed to be replaced.
- 23 e. Failed to obtain a required permit for the water line replacement and/or the plumbing
24 work under the floor.

25 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

26 **(Intentional Act Causing Harm)**

27 85. Respondent Plumber Hero has subjected its license to disciplinary action under Code
28 section 7116, in that on the B.J.I. project, Respondent Plumber Hero willfully or fraudulently

1 overcharged for work that was not required, causing a substantial injury to B.J.I. in the amount of
2 \$21,682.10.

3 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

4 **(Contract Violations)**

5 86. Respondent Plumber Hero has subjected its license to disciplinary action under Code
6 section 7159.5, in that on the B.J.I. project, Respondent Plumber Hero failed to comply with the
7 following provisions:

8 a. **Subdivision (a)(5):** Respondent Plumber Hero requested and received payment that
9 exceeded the value of work or materials provided to the B.J.I. project, as set forth above in
10 paragraphs 77-82.

11 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

12 **(Misrepresentation in Obtaining Contract)**

13 87. Respondent Plumber Hero has subjected its license to disciplinary action under Code
14 section 7161(b) in that on the B.J.I. project, Respondent Plumber Hero made substantial
15 misrepresentations to B.J.I. in the procurement of the contract as set forth in paragraphs 77-82
16 above.

17 **R.D. PROJECT**

18 88. In July 2018, R.D. had a sewage backup in his home and called Respondent Plumber
19 Hero. On July 23, 2018, R.D. paid Respondent Plumber Hero \$1,298.28 to hydrojet the sewer
20 line.

21 89. On July 31, 2018, the sewer backed up again and R.D. called Respondent Plumber
22 Hero. On July 31, 2018, R.D. paid Respondent Plumber Hero \$4,200.00 to replace a four-foot
23 section of the sewer pipe.

24 90. On December 22, 2018, R.D. again had sewage issues and again called Respondent
25 Plumber Hero. Respondent Plumber Hero sent a supervisor and technician to R.D.'s home who
26 entered into a contract with R.D. to replace the sewer line in the back of the home, install
27 cleanouts and replace drain lines under the home for \$23,397.53 (R.D. project). Respondent
28 Plumber Hero collected a down payment of \$2,300.00.

1 91. On December 27, 2018, Respondent Plumber Hero's supervisor told R.D. that all the
2 drain lines under the home needed to be replaced. Based on representations made by Respondent
3 Plumber Hero's supervisor, R.D. agreed to a change order in the amount of \$18,494.17, raising
4 the total contract price to \$41,891.70. On this date, Respondent Plumber Hero required payment
5 of \$39,000.00, prior to that value of work being completed or materials delivered.

6 92. Work on the R.D. project was performed between December 22, 2018 and January 3,
7 2019. The permit was finalized on January 4, 2019.

8 93. The Board's Industry Expert (IE) determined that there were no indications that the
9 existing cast iron drain and waste system needed to be replaced. In addition, much of the work
10 described in the contract was not performed and some of the work done was below trade
11 standards.

12 94. The Board's IE also determined that the only work of value performed was
13 approximately 75 lineal feet of the sewer line that was replaced and the value of that work was a
14 total of \$6,000.00.

15 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Exercise Direct Supervision)**

17 95. Respondent Plumber Hero has subjected its license to disciplinary action under Code
18 section 7068.1, in that on the R.D. project, Respondent Beyerman failed to exercise direct
19 supervision and control over the contracting activities on the R.D. project.

20 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

21 **(Abandonment)**

22 96. Respondent Plumber Hero has subjected its license to disciplinary action under Code
23 section 7107, in that on the R.D. project, Respondent Plumber Hero abandoned the R.D. project
24 leaving the following work to be completed:

- 25 a. Failed to saw cut the asphalt as the contract specified.
- 26 b. Failed to export the spoil as the contract specified.
- 27 c. Failed to import slurry as the contract specified.
- 28 d. Failed to provide the street traffic crew as the contract specified.

- e. Failed to install delineators as the contract specified.
- f. Failed to install a traffic plate as the contract specified.
- g. Failed to utilize a crane as the contract specified.
- h. Failed to replace the asphalt in the street as the contract specified.
- i. Failed to install the cleanout at the street as the contract specified.
- j. Failed to replace the city lateral as the contract specified.
- k. Failed to properly strap the plumbing.
- l. Failed to install cleanouts at each 45 degree turn.
- m. Failed to perform disinfecting work under the residence as the contract specified.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Departure from Accepted Trade Standards)

97. Respondent Plumber Hero has subjected its license to disciplinary action under Code section 7109(a), in that on the R.D. project, Respondent Plumber Hero willfully departed from accepted trade standards for good and workmanlike construction in the following material respects by not using proper ABS-DMV fittings.

THIRTIETH CAUSE FOR DISCIPLINE

(Intentional Act Causing Harm)

98. Respondent Plumber Hero has subjected its license to disciplinary action under Code section 7116, in that on the R.D. project, Respondent Plumber Hero willfully or fraudulently overcharged for work that was not required, causing a substantial injury to R.D. in the amount of \$35,891.70.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Contract Violations)

99. Respondent Plumber Hero has subjected its license to disciplinary action under Code section 7159.5, in that on the R.D. project, Respondent Plumber Hero failed to comply with the following provisions:

///

///

1 a. **Subdivision (a)(3):** Respondent Plumber Hero requested and received an excessive
2 down payment on the R.D. project.

3 b. **Subdivision (a)(5):** Respondent Plumber Hero requested and received payment that
4 exceeded the value of work or materials provided to the R.D. project, as set forth above in
5 paragraphs 88-94.

6 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

7 **(Misrepresentation in Obtaining Contract)**

8 100. Respondent Plumber Hero has subjected its license to disciplinary action under Code
9 section 7161(b) in that on the R.D. project, Respondent Plumber Hero made substantial
10 misrepresentations to R.D. in the procurement of the contract as set forth in paragraphs 88-94
11 above.

12 **J.D.R. PROJECT**

13 101. On November 5, 2018, Respondent Plumber Hero, through unregistered home
14 improvement salesperson Jose Garcia, contracted with J.D.R. to replace the sewer line from his
15 home to the property line, install a cleanout near the property line and patch the asphalt for
16 \$20,000.00 (J.D.R. project). J.D.R. was not provided a written copy of the contract prior to the
17 commencement of the work.

18 102. Work began on November 6, 2018 and ended on November 14, 2018. On November
19 9, 2018, Respondent Plumber Hero was paid the full \$20,000.00 through Green Sky financing
20 despite the fact that the work had not been completed.

21 103. On November 19, 2018, the San Mateo Building Department performed an inspection
22 and identified corrections that were needed. Respondent Plumber Hero did not respond to
23 J.D.R.'s requests to return and make the required corrections.

24 104. The Board's Industry Expert (IE) determined that a portion of the scope of the work
25 was not completed and there were some workmanship problems with some of the work that was
26 performed. The IE determined that J.D.R. was overcharged in the amount of \$14,979.75.

27 ///

28 ///

1 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Exercise Direct Supervision)**

3 105. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7068.1, in that on the J.D.R. project, Respondent Beyerman failed to exercise direct
5 supervision and control over the contracting activities on the J.D.R. project.

6 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

7 **(Abandonment)**

8 106. Respondent Plumber Hero has subjected its license to disciplinary action under Code
9 section 7107, in that on the J.D.R. project, Respondent Plumber Hero abandoned the J.D.R.
10 project leaving the following work to be completed:

- 11 a. Failed to install the new cleanout at the property line as the contract specified.
12 b. Failed to replace the section of piping beyond the cleanout as the contract specified.
13 c. Failed to replace the clay sewer line in the right of way that was in poor condition.

14 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

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

16 107. Respondent Plumber Hero has subjected its license to disciplinary action under Code
17 section 7109(a), in that on the J.D.R. project, Respondent Plumber Hero willfully departed from
18 accepted trade standards for good and workmanlike construction in the following material
19 respects:

- 20 a. The run of the sewer between cleanouts consisted of four 45 degree offsets, without
21 the benefit of the Code required cleanouts.
22 b. At the 37 foot point of the sewer line, the HDPD (high-density polyethylene) joint
23 was not fused, but rather coupled and was separated by approximately ½ inch.

24 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

25 **(Intentional Act Causing Harm)**

26 108. Respondent Plumber Hero has subjected its license to disciplinary action under Code
27 section 7116, in that on the J.D.R. project, Respondent Plumber Hero willfully or fraudulently
28

1 overcharged for work that was not required, causing a substantial injury to J.D.R. in the amount
2 of \$14,979.75.

3 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

4 **(Utilized Unregistered Salesperson)**

5 109. Respondent Plumber Hero has subjected its license to disciplinary action under Code
6 section 7154, in that on the J.D.R. project, Respondent employed unregistered home improvement
7 salesperson Jose Garcia.

8 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with the Provisions of the Contractors' State License Law)**

10 110. Respondent Plumber Hero has subjected its license to disciplinary action under Code
11 section 7159, in that on the J.D.R. project, Respondent Plumber Hero failed to provide a written
12 contract and/or written change orders to J.D.R. prior to the commencement of work.

13 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

14 **(Contract Violations)**

15 111. Respondent Plumber Hero has subjected its license to disciplinary action under Code
16 section 7159.5, in that on the J.D.R. project, Respondent Plumber Hero failed to comply with the
17 following provisions:

18 a. **Subdivision (a)(5):** Respondent Plumber Hero requested and received payment that
19 exceeded the value of work or materials provided to the J.D.R. project, as set forth above in
20 paragraphs 101-104.

21 **G.W. PROJECT**

22 112. Between or about April 11, 2019 and April 17, 2019, Respondent Plumber Hero
23 entered into at least four contracts with homeowner G..W. for plumbing services in Escondido,
24 California (G.W. project) for a total contract price of \$39,358.00. Work included a re-pipe of two
25 bathrooms, installation of approximately 45 feet of pipe liner, replacement of a combo and p-trap,
26 including jackhammering and saw-cutting to expose the mainline, boring out the mainline,
27 patching the drywall, and removal of concrete to facilitate the performance of the work.

28 ///

1 113. G.W. initially contacted Respondent Plumber Hero for a clogged drain issue in which
2 the bathtub was not draining properly. According to documents received from Respondent
3 Plumber Hero, Respondent Plumber Hero advised G.W. that the contracted work was necessary
4 due to the compromised state of the sewer lines with significant root intrusion.

5 114. Work began on April 12, 2019. Despite contracts that were dated April 11, 13 and
6 17, 2019, and despite work performed between April 12 and 17, 2019, contracts provided by
7 Respondent Plumber Hero reflect that G.W. signed all the contracts on April 17, 2019.

8 115. Work continued at the G.W. project through approximately May 1, 2019, and came to
9 a halt prior to full completion of the project when G.W.'s daughter Y.W. questioned the necessity
10 of the work and refused to release funds to Respondent Plumber Hero. Respondent Plumber Hero
11 did not finish the G.W. project and received no money from G.W.

12 **FORTIETH CAUSE FOR DISCIPLINE**

13 **(Failure to Exercise Direct Supervision)**

14 116. Respondent Plumber Hero has subjected its license to disciplinary action under Code
15 section 7068.1, in that on the G.W. project, Respondent Beyerman failed to exercise direct
16 supervision and control over the contracting activities on the G.W. project.

17 **FORTY-FIRST CAUSE FOR DISCIPLINE**

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

19 117. Respondent Plumber Hero has subjected its license to disciplinary action under Code
20 section 7109, subdivision (a), in that on the G.W. project, Respondent Plumber Hero willfully
21 departed from accepted trade standards for good and workmanlike construction in the following
22 material respects:

23 a. Epoxy lining was applied rather than re-piping, which is not identified by the
24 plumbing code to correct reverse slope. Additionally, Epoxy lining was not applied as per
25 manufacturer's recommendation, in that there was insufficient boring and hi-pressure washing,
26 (Hydro-jetting) to existing piping.

27 ///

28 ///

1 **FORTY-SECOND CAUSE FOR DISCIPLINE**

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

3 118. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
4 under Code section 7110, in that on the G.W. project, Respondent willfully and deliberately
5 disregarded City of Escondido's building laws by failing to obtain a building permit for the re-
6 piping of both bathrooms.

7 **FORTY-THIRD CAUSE FOR DISCIPLINE**

8 **(Willful or Fraudulent Act)**

9 119. Respondent Plumber Hero has subjected its license to disciplinary action under Code
10 section 7116, in that on the G.W. project, it committed willful or fraudulent acts, causing
11 substantial injury to G.W. in that the work performed was not performed to industry standards
12 and was not the appropriate method of correction for the reverse slope (required re-piping).

13 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Provisions of the Contractors' State License Law)**

15 120. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
16 under Code section 7159, in that on the G.W. project, Respondent failed to comply with
17 provisions of that section, as follows:

18 a. **Subdivision (e)(4)**: Respondent failed to provide the required heading of mechanic's
19 lien warning and the language required by law.

20 b. **Subdivision (e)(5)**: Respondent failed to provide the required notice within the
21 contract regarding the Contractors State License Board.

22 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

23 **(Misrepresentation in Obtaining Contract)**

24 121. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
25 under Code section 7161, subdivision (b), in that Respondent represented that the pipes needed to
26 be re-lined, however, epoxy lining is not an appropriate method to correct reverse slope.

27 ///

28 ///

1 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Committed Fraud in the Execution of Documents)**

3
4 122. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
5 under Code section 7161, subdivision (c), in that Respondent Plumber Hero altered the signature
6 dates on the G.W. contract.

7 **M.L. PROJECT**

8 123. On August 7, 2019, Respondent Plumber Hero entered into a home improvement
9 contact with A.M.W., a caregiver who was acting on behalf of homeowner M.L., for plumbing
10 repairs at ML's home located in Los Angeles, California, (M.L. project) for the contract price of
11 \$2,700, which included labor, material, and permits. The scope of work included excavation and
12 repairs to the sewer line due to a stoppage. On the same date, Respondent Plumber Hero
13 requested and received an excessive down payment of \$1,000 from ML. The contract was sold
14 by an unknown field technician and A.M.W. signed the contract on a tablet. Respondent Plumber
15 Hero failed to provide homeowner M.L. with a copy of a written, signed contract prior to the
16 commencement of work.

17 124. Work commenced on August 7, 2019. On August 8, 2019, Respondent Plumber
18 Hero's technicians returned to the property and verbally sold additional work to A.M.W./M.L. in
19 the amount of \$11,905.00. Respondent Plumbing Hero failed to reduce the change order to
20 writing, and failed to provide ML with a written, signed copy of the change order. The scope of
21 work pursuant to the change order was to open a trench across the front lawn to install a new
22 cleanout and perform piping repairs. This increased the total contract price to \$14,625.00. On
23 August 8, 2019, M.L. paid Respondent Plumbing Hero \$13,625.00, which represented the balance
24 on the contract. Respondent failed to secure a building permit from the City of Los Angeles
25 before commencing the M.L. project. Respondent Plumber Hero later obtained the building
26 permit on August 12, 2019. On August 15, 2020, the work was finalized by the City and
27 Respondent Plumber Hero backfilled the trench and completed the project.

28 ///

1 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Exercise Direct Supervision)**

3 125. Respondent Plumber Hero has subjected its license to disciplinary action under Code
4 section 7068.1, in that on the M.L. project, Respondent Beyerman failed to exercise direct
5 supervision and control over the contracting activities on the M.L. project.

6 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

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

8 126. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
9 under Code section 7110, in that on the M.L. project, Respondent Plumber Hero failed to obtain a
10 building permit for the project prior to commencing the project.

11 **FORTY-NINTH CAUSE FOR DISCIPLINE**

12 **(Failed to Comply with Requirements of the Home Improvement Contract Provisions)**

13
14 127. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
15 under Code section 7159, in that on the M.L. project, Respondent failed to comply with
16 provisions of that section by failing to reduce written change orders to writing.

17 **FIFTIETH CAUSE FOR DISCIPLINE**

18 **(Failed to Comply with Requirements of the Home Improvement Contract Requirements)**

19 128. Respondent Plumber Hero has subjected its contractor's license to disciplinary action
20 under Code section 7159.5, in that on the M.L. project, Respondent failed to comply with
21 provisions of that section as follows:

22 a. Subsection (a)(3): Respondent requested and accepted a down payment in excess of
23 10 percent of the contract price or \$1,000, whichever is less.

24 b. Subsection (a)(5): Respondent requested and accepted payments in excess of the
25 work performed or material delivered.

26 ///

27 ///

28 ///

1 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Cause for Discipline for Qualifier – Respondent Beyermann)**

3 129. Pursuant to section 7122.5 of the Code, the causes for discipline established as to
4 Respondent Plumber Hero constitute cause for discipline against Respondent Beyermann, dba
5 Mr. Rooter Plumbing, Contractor's license number 607668, regardless of whether Respondent
6 Beyermann had knowledge of or participated in the acts or omissions which constitute cause for
7 discipline against Respondent Plumber Hero.

8
9 **CAUSES FOR OTHER ACTION**

10 **FIRST CAUSE FOR OTHER ACTION**

11 **(Restrictions on Qualifier – Respondent William John Beyermann)**

12 130. Pursuant to Code section 7121.5, if license number 1028886, issued to Respondent
13 Plumber Hero is revoked or suspended, Respondent Beyermann shall be prohibited from serving
14 as an officer, director, associate, partner, manager, or qualifying individual of a licensee during
15 the time the discipline is imposed, whether or not he had knowledge of or participated in the acts
16 or omissions constituting grounds for discipline as alleged in the causes for discipline, above, and
17 any licensee which employs, elects, or associates Respondent Beyermann other than as a bona
18 fide nonsupervising employee shall be subject to disciplinary action.

19 **SECOND CAUSE FOR OTHER ACTION**

20 **(Restrictions on Qualifier – Respondent John Akhoian)**

21 131. Pursuant to Code section 7121, if license number 1028886, issued to Respondent
22 Plumber Hero is revoked or suspended, Respondent John Akhoian shall be prohibited from
23 serving as an officer, director, associate, partner, manager, qualifying individual, or member of
24 the personnel of record of a licensee in that, while serving as Officer of Respondent Plumber
25 Hero, he had knowledge of or participated in the acts or omissions constituting grounds for
26 discipline as alleged in the causes for discipline, above, and any licensee which employs, elects,
27 or associates Respondent John Akhoian other than as a bona fide nonsupervising employee shall
28 be subject to disciplinary action.

1

2

3

1

2

3

22

13

- 25

1 3. Ordering restitution of all damages according to proof suffered by D.S., M.H., J.W.,
2 B.J.I., R.D., J.D.R., G.W. and/or M.L. as a condition of probation in the event probation is
3 ordered for Respondent Mr. Rooter Plumbing and/or Respondent William John Beyerman,
4 pursuant to Government Code section 11519, subdivision (d);

5 4. Ordering Respondent Plumber Hero and Respondent Beyerman, dba Mr. Rooter
6 Plumbing, to pay the Registrar costs for the investigation and enforcement of the case according
7 to proof at the hearing, pursuant to Code section 125.3;

8 5. Ordering Respondent Plumber Hero and Respondent Beyerman, dba Mr. Rooter
9 Plumbing to provide the Registrar with a listing of all contracting projects in progress and the
10 anticipated completion date of each, pursuant to Code section 7095;

11 6. Ordering that Respondent Beyerman is prohibited from serving as an officer, director,
12 associate, partner, manager or qualifying individual of a licensee, pursuant to Code section
13 7121.5;

14 7. Ordering that Respondent Bergeron is prohibited from serving as an officer, director,
15 associate, partner, manager or qualifying individual of a licensee, pursuant to Code section 7121;

16 8. Ordering that Respondent John Akhoian is prohibited from serving as an officer,
17 director, associate, partner, manager or qualifying individual of a licensee, pursuant to Code
18 section 7121;

19 9. Ordering that Respondent Tamar Akhoian is prohibited from serving as an officer,
20 director, associate, partner, manager or qualifying individual of a licensee, pursuant to Code
21 section 7121;

22 10. Taking such other and further action deemed proper.

23 DATED: 3/19/21



WOOD ROBINSON
Supervising Special Investigator I
Contractors State License Board
Department of Consumer Affairs
State of California
Complainant *TCS*

24
25
26
27
28 SF2020401116
42521455.docx