

BEFORE THE  
REGISTRAR OF CONTRACTORS  
CONTRACTORS STATE LICENSE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**D C'S ASPHALT MAINTENANCE INC.**  
**Donny Edward Costa, RMO/CEO/Pres.**  
**P.O. Box 2622**  
**Rohnert Park, CA 94927**

**Contractor's License No. 994097, Class C-32**

Respondent.

CASE NO. N2018-224

ORDER TO ADOPT  
DEFAULT DECISION

[Gov. Code, § 11520]

The attached Default Decision is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

Contractor's License Number **994097** issued to **D C'S ASPHALT MAINTENANCE INC** is revoked.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, title 16, Respondent License **D C'S ASPHALT MAINTENANCE INC** Contractor's License No. **994097**, shall not apply for reissuance or reinstatement of said license for one year(s) from the effective date of this Decision.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on November 14, 2019.

IT IS SO ORDERED October 14, 2019.

  
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David Fogt  
Registrar of Contractors

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12 **STATE OF CALIFORNIA**

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15 **Donny Edward Costa, RMO/CEO/Pres.**  
16 **P.O. Box 2622**  
17 **Rohnert Park, CA 94927**

18 **Contractor's License No. 994097, Class C-32**

19 **Respondent.**

Case No. N2018-224

**DEFAULT DECISION**

[Gov. Code, §11520]

20 **FINDINGS OF FACT**

21 1. On or about June 3, 2019, Accusation No. N2018-224 was filed against D C's Asphalt  
22 Maintenance Inc., Donny Edward Costa, RMO/CEO/Pres. (Respondent) before the Registrar of  
23 Contractors (Registrar) for the Contractors' State License Board (Board). (Accusation attached as  
24 Exhibit A.)

25 2. On or about June 28, 2014, the Registrar issued Contractor's License No. 994097, C-  
26 32 to Respondent. The Contractor's License will expire on June 30, 2020, unless renewed.

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1           3.     On or about June 4, 2019, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. N2018-224, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
5 section 136, is required to be reported and maintained with the Board. Respondent's address of  
6 record was and is:

7 P.O. Box 2622  
8 Rohnert Park, CA 94927.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505(c) and/or Business & Professions Code section 124.

11           5.     Government Code section 11506(c) states, in pertinent part:

12                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
13 files a notice of defense . . . and the notice shall be deemed a specific denial of all  
14 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
15 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
16 discretion may nevertheless grant a hearing.

17           6.     The Registrar takes official notice of the Board's records and the fact that Respondent  
18 failed to file a Notice of Defense within 15 days after service upon it of the Accusation, and  
19 therefore waived its right to a hearing on the merits of Accusation No. N2018-224.

20           7.     California Government Code section 11520(a) states, in pertinent part:

21                 (a) If the respondent either fails to file a notice of defense . . . or to appear at  
22 the hearing, the agency may take action based upon the respondent's express  
23 admissions or upon other evidence and affidavits may be used as evidence without  
24 any notice to respondent. . . .

25           8.     Pursuant to its authority under Government Code section 11520, the Registrar finds  
26 that Respondent is in default. The Registrar will take action without further hearing and, based  
27 on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this  
28 matter, as well as taking official notice of all the investigatory reports, exhibits, and statements  
contained therein on file at the Board's offices regarding the allegations contained in Accusation  
No. N2018-224, finds that the charges and allegations in Accusation No. N2018-224 are,  
separately and severally, true and correct by clear and convincing evidence.

9. The Registrar finds that the actual costs for investigation and prosecution are \$2,328.12 as of July 12, 2019.

10. The Registrar finds that the loss to P.Y. caused by the acts or omissions of Respondent is \$30,000.00.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent D C's Asphalt Maintenance Inc., Donny Edward Costa, RMO/CEO/Pres. (Respondent) has subjected its Contractor's License No. 994097, C-32 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Registrar of Contractors is authorized to revoke Respondent's contractor's license based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Violation of Business and Professions Code (Code) section 7107, in that Respondent abandoned the project without legal excuse.

b. Violation of Code section 7108, in that Respondent diverted to another project or to another purpose funds that Respondent received for a specific purpose.

c. Violation of Code section 7113, in that Respondent failed in a material respect to complete the project for the contract price.

d. Violation of Code section 7117.6, in that Respondent acted as a contractor in a classification other than that held by Respondent.

e. Violation of Code section 7116, in that Respondent willfully performed an act causing injury.

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III

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1 f. Violation of Code section 7125.4(a), in that Respondent hired an employee after  
2 filing an exemption from Workers' Compensation Insurance with the Board, without first filing  
3 proof of Workers' Compensation coverage.

4 Pursuant to Business and Professions Code section 7121.5, the qualifier of corporate  
5 licensee that is revoked shall be prohibited from serving as an officer, director, associate, partner,  
6 manager, or qualifying individual of a licensee, regardless of whether the individual had  
7 knowledge of or participated in the prohibited acts or omissions for which the corporate licensee  
8 was revoked, and the employment, election, or association of that individual by a licensee shall  
9 constitute grounds for disciplinary action. Pursuant to this section, Donny Edward Costa is  
10 prohibited from serving as an officer, director, associate, partner, manager, or qualifying  
11 individual of a licensee, and any licensee that employs, elects, or associates Donny Edward Costa  
12 shall be subject to discipline.

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15 REGISTRAR OF CONTRACTORS  
16 CONTRACTORS STATE LICENSE BOARD  
17 DEPARTMENT OF CONSUMER AFFAIRS

16 21535488.DOCX  
17 DOJ Matter ID:SF2018201879

17 Attachment:  
18 Exhibit A: Accusation  
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# Exhibit A

Accusation

1 XAVIER BECERRA  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
4 State Bar No. 243744  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3472  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **REGISTRAR OF CONTRACTORS**  
10 **CONTRACTORS' STATE LICENSE BOARD**  
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15 **Donny Edward Costa, RMO/CEO/Pres.**  
16 **P.O. Box 2622**  
17 **Rohnert Park, CA 94927**

**ACCUSATION**

18 **Contractor's License No. 994097, Class C-32**

**Respondent.**

19 **PARTIES**

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

23 2. On or about June 28, 2014, the Registrar of Contractors (Registrar) issued  
24 Contractor's License Number 994097, C-32 to D C's Asphalt Maintenance Inc., Donny Edward  
25 Costa, RMO/CEO/President (Respondent). The Contractor's License was in full force and effect  
26 at all times relevant to the charges brought herein and will expire on June 30, 2020, unless  
27 renewed.

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## JURISDICTION

3. This Accusation is brought before the 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 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Registrar of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 7076.1, the Registrar may reinstate a cancelled license if the licensee pays all of the fees and meets all of the qualifications and requirements for obtaining an original license.

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

6. 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 AND REGULATORY PROVISIONS

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."

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1       9.    Section 7113 of the Code states:

2       "Failure in a material respect on the part of a licensee to complete any construction project  
3   or operation for the price stated in the contract for such construction project or operation or in any  
4   modification of such contract constitutes a cause for disciplinary action."

5       10.   Section 7116 of the Code states:

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

8       11.   Section 7117.6 of the Code states:

9       "Acting in the capacity of a contractor in a classification other than that currently held by  
10   the licensee constitutes a cause for disciplinary action."

11       12.   Section 7125.4(a) of the Code states:

12       "The filing of the exemption certificate prescribed by this article that is false, or the  
13   employment of a person subject to coverage under the workers' compensation laws after the filing  
14   of an exemption certificate without first filing a Certificate of Workers' Compensation Insurance  
15   or Certification of Self-Insurance in accordance with the provisions of this article, or the  
16   employment of a person subject to coverage under the workers' compensation laws without  
17   maintaining coverage for that person, constitutes cause for disciplinary action."

18       13.   California Code of Regulations, title 16, section 832.32 identifies the scope of C-32  
19   licensure as follows:

20       "A parking and highway improvement contractor applies and installs protective coatings,  
21   vehicle stops, guard rails and mechanical devices, directional lines, buttons, markers, signs and  
22   arrows on the horizontal surface of any game court, parking facility, airport, highway or roadway  
23   constructed of concrete, asphalt or similar material. This classification includes the surface  
24   preparatory work necessary for the application of protective coatings but does not include the re-  
25   paving of these surfaces."

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2. Prohibiting Donny Edward Costa from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on license number 994097;

3. Revoking or suspending any other license for which Donny Edward Costa is furnishing the qualifying experience or appearance;

4. Ordering restitution of all damages according to proof suffered by P.Y. as a condition of probation in the event probation is ordered;

5. Ordering restitution of all damages suffered by P.Y. as a result of Respondent's conduct as a contractor, as a condition of restoration of license number 994097;

6. Ordering Respondent to pay the Registrar of Contractors its costs for the investigation and enforcement of the case according to proof at the hearing, pursuant to Business and Professions Code section 125.3;

7. Ordering Respondent 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 is deemed necessary and proper.

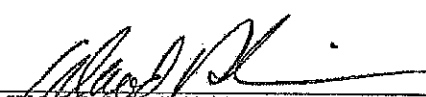
DATED:

6/3/2019

**FILED**

JUN 03 2019

**CSLB DSS**

  
WOOD ROBINSON  
Enforcement Supervisor I  
Contractors' State License Board  
Department of Consumer Affairs  
State of California  
Complainant  
HMH