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

In the Matter of the Accusation Against: **STEVEN FRANCIS BARTKUS,** **DBA BARTKUS REMODEL** 843 Garden Court Petaluma, CA 94954 **Contractors License No. 937589, Class B** Respondent.	Case No. N2019-142 **ACCUSATION**

PARTIES

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

2. On or about September 10, 2009, the Registrar of Contractors (Registrar) issued Contractor's License Number 937589, Class B (General Building), to Steven Francis Bartkus, doing business as Bartkus Remodel (Respondent). The Contractor's License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2021, unless 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. Code section 118, subdivision (b), states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Code section 7076.5, subdivision (h), states:

The inactive status of a license shall not bar any disciplinary action by the board against a licensee for any of the causes stated in this chapter.

6. Code section 7090 provides, in pertinent part, that the Registrar may suspend or revoke any license or registration if the licensee or registrant is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.

7. Code section 7106.5 states:

The expiration, cancellation, forfeiture, revocation, or suspension of a license by operation of law or by order or decision of the registrar or a court of law, or the voluntary surrender of a license by a licensee, shall not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against the license, or to render a decision suspending or revoking the license.

8. Code section 7121 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 partnership, corporation, limited liability company, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a 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.

STATUTORY PROVISIONS

9. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is

made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos* v. *Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

10. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

11. Section 7123 of the Code states:

A conviction of a crime substantially related to the qualifications, functions and duties of a contractor constitutes a cause for disciplinary action. The record of the conviction shall be conclusive evidence thereof.

12. Section 7124 of the Code states:

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A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 868 states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act, as defined in Section 480 of the code, shall be considered to be substantially related to the qualifications, functions, or duties of a licensee (under Division 3, Chapter 9 of the code) if it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the licensee in a manner consistent with the public health, safety, and welfare. The crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 9 of Division 3 of the code.

(b) Failure to comply with the provisions of the California Administrative Code, Chapter 8, Title 16.

(c) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.

(d) Crimes or acts involving physical violence against persons.

(e) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

14. California Code of Regulations, title 16, section 869 states, in pertinent part:

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(a) When considering the denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the code, the Board in evaluating the applicant's or licensee's rehabilitation and present eligibility for a license will consider the following criteria:

(1) Subject to the provisions of subsection (a)(2), an applicant or licensee may be determined to be rehabilitated if he or she meets the following criteria:

(A) For felony convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(B) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(C) For acts that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of commission of the act(s), without the occurrence of criminal activity or additional substantially-related acts.

(2) The amount of time needed to demonstrate rehabilitation under subsection (a)(1) may be increased or decreased by taking into account the following:

(A) The nature and severity of the crime(s) or act(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(B) Evidence of any crime(s) or act(s) committed subsequent to the crime(s) or act(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation.

(C) The time that has elapsed since commission of the crime(s) or act(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(D) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.

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(E) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the time of commission of the act(s).

(F) Documents or testimony from credible individuals who have personal knowledge of the applicant's or licensee's life and activities subsequent to the time of commission of the crime(s) or act(s) who can attest to the applicant's or licensee's present fitness for licensure.

(G) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(H) Other relevant evidence, if any, of rehabilitation submitted by the applicant or licensee. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion program if the crime(s) or act(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s) or act(s) demonstrated the applicant's or licensee's inability to control one's temper.

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COST RECOVERY AND OTHER AUTHORITY

15. Code section 125.3, subdivision (a) of the Code states:

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.

16. Code section 7095 states:

The decision may:

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

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

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

17. Code section 7097 states:

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.

18. Code section 7098 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.

19. Code section 7102 states:

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

After revocation of a license upon any of the grounds set forth in this chapter, the license shall not be reinstated or reissued and a license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds for revocation, within a minimum period of one year and a maximum period of five years after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been

fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

The board shall promulgate regulations covering the criteria to be considered when extending the minimum one-year period. The criteria shall give due consideration to the appropriateness of the extension of time with respect to the following factors:

(a) The gravity of the violation.

(b) The history of previous violations.

(c) Criminal convictions.

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

CAUSE FOR DISCIPLINE

(May 31, 2018 Criminal Conviction for Driving Under the Influence)

20. Respondent has subjected his license to disciplinary action under Code sections 490 and 7123 in that he was convicted of a crime substantially related to the qualifications, functions and duties of a contractor. The circumstances are as follows:

21. On or about May 31, 2018 in the case of *People v. Steven Francis Bartkus*, Sonoma County Superior Court Case No. SCR-712882-1, Respondent was convicted by his plea of guilty of violating Vehicle Code Section 23152(b) driving while having a BAC of 0.08% or more, with two prior convictions in 2014 and 2017, and with the admission that his BAC was 0.15% and more within the meaning of Vehicle Code section 23578. On June 19, 2018, Respondent was sentenced to serve 120 days in the county jail, placed on 60 months formal probation, ordered to obey all laws, enroll and complete the Multiple Offender Drinking Driver Program, have an ignition interlock device installed on his vehicle, obey all laws orders, rules and regulations of the court, and to pay fines and fees.

DISCIPLINE CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about May 4, 2016, in a prior action, the Contractors State License Board issued Citation Number 2 2015 2793 to Respondent for violation of Code section 7123 based on convictions for Penal Code section 148(a)(1) [obstructing a public office] and for Vehicle Code section 23152(b) [driving while having a blood alcohol level of 0.08 % or more] and ordered him to pay a civil penalty. That Citation is now final.

CAUSE FOR OTHER ACTION

(Restriction on Respondent Steven Francis Bartkus)

23. Pursuant to Code section 7121, if License Number 937589 issued to Respondent is revoked or suspended, Respondent Steven Francis Bartkus shall be prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of a licensee.

PRAYER

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

1. Ordering the revocation or suspension of Contractor's License Number 937589, issued to Respondent Steven Francis Bartkus, doing business as Bartkus Remodel, pursuant to Code section 7090;

2. Ordering that Respondent Steven Francis Bartkus is prohibited from serving as an officer, director, associate, partner, manager, qualifying individual, or member of the personnel of record of any licensee, pursuant to Code section 7121;

3. Ordering Respondent Steven Francis Bartkus to pay the Registrar costs for the investigation and enforcement of the case according to proof at the hearing, pursuant to Code section 125.3;

4. Ordering Respondent Steven Francis Bartkus to provide the Registrar with a listing of all contracting projects in progress and the anticipated completion date of each, pursuant to Code section 7095; and

5. Taking such other and further action deemed proper.

DATED: 1/14/20

FILED
JAN 14 2020
CSLB DSS

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