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

In the Matter of the Accusation Against:	CASE NUMBER N 2010 514
THAT GUY CONSTRUCTION 2606 Via Masada Carlsbad, CA. 92010 Carl Jacob Wagner IV, Sole Owner License Number: 897674, B Respondent	SUPERIOR COURT CASE NUMBER CD235894 ORDER OF THE REGISTRAR PURSUANT TO BUSINESS & PROFESSIONS CODE SECTION 7106

WHEREAS, on December 9, 2011, the Honorable Theodore M. Weathers, Judge of the Superior Court, of the State of California for the County of San Diego County, in proceedings entitled People of the State of California vs. Carl Jacob Wagner, Case Number CD235894, ordered pursuant to Business and Professions Code section 7106, the revocation of the contractor's license issued to, **THAT GUY CONSTRUCTION,** license number 897674.

THEREFORE, in obedience to said order, it is hereby ordered that license number 897674, classification B, issued to **THAT GUY CONSTRUCTION,** is revoked effective December 9, 2011.

IT IS SO ORDERED this December 19, 2011.

Stephen P. Sands
Registrar of Contractors

A98-5/09

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LINDA K SCHNEIDER
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

CARL JACOB WAGNER,

dob 11/07/71

Contractor License No. 897674

Defendant.

STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Applicant.

Case No. CD235894

STIPULATION RE: REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE

DATE: December 9, 2011
TIME: 8:15 a.m.
DEPARTMENT: 30

IT IS HEREBY STIPULATED THAT the Court may revoke General Building Contractor License No. 897674-B held by That Guy Construction; sole owner Carl Jacob Wagner, pursuant to Business and Professions Code section 7106.

DATED: Dec 09th, 2011

Carl Wagner
CARL JACOB WAGNER
Defendant and Sole Owner of
That Guy Construction

DATED: December 9, 2011

Loretta A. West
LORETTA A. WEST
Deputy Attorney General
Attorneys for Applicant
Stephen P. Sands, Registrar
Contractors State License Board
Department of Consumer Affairs
State of California

IT IS SO ORDERED

DATED: DEC 09 2011, 2011

THEODORE M. WEATHERS

JUDGE OF THE SUPERIOR COURT

CLERK'S CERTIFICATE

The foregoing document, consisting of page(s), is a full, true, and correct copy of the ☐ original ☐ copy on file in this office

DEC 09 2011
Date

Clerk of the Superior Court

by _____
Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. CARL JACOB WAGNER, Defendant. STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA Applicant.	Case No. CD235894 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF BY STATE LICENSING AGENCY'S RECOMMENDATION FOR REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE;** **[Penal Code Section 23; Business and Professions Code Section 7106]** **DATE: December 9, 2011** **TIME: 8:15 a.m.** **DEPARTMENT: 30**

I. INTRODUCTION AND STATEMENT OF FACTS

In order to protect the public safety, Stephen P. Sands, Registrar of Contractors, Contractors' State License Board, makes this special appearance pursuant to Penal Code section 23, to request that this court issue an Order revoking defendant Carl Jacob Wagner's Contractor License No. 897674, and, issue an Order prohibiting defendant Carl Jacob Wagner

from acting in the capacity of a licensed contractor unless duly licensed, as a condition of his own recognizance release, bail or probation.

Defendant Wagner is the sole owner of "That Guy Construction." As sole owner of the company, defendant is responsible for all of its construction operations. On June 4, 2007, the Contractors' State License Board issued Contractor License No. 897674 to defendant doing business as That Guy Construction. After numerous suspensions and reinstatements[1], the defendant's contractor license expired under suspension on June 30, 2011. Currently, defendant may reinstate his contractor license and continue to act as a licensed contractor at any time before June 30 2014, three years after expiration of the license, by simply paying any required fees and fines.

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[1] Defendant's contractor license was suspended on June 2, 2009, pursuant to Code of Civil Procedure section 996.340 (contractor's bond deficient), and reinstated on June 15, 2009; defendant's contractor license expired on June 30, 2009, and was renewed on July 14, 2009; defendant's contractor license was suspended on December 11, 2009, for violation of Welfare and Institutions Code section 17520 (failure to pay family support), and reinstated on March 24, 2010; defendant's contractor license was suspended on April 2, 2010, for violation of Business and Professions Code section 7125.2 (failure to have Worker's Compensation Insurance), and reinstated on July 20, 2010*; defendant's contractor license was suspended on June 27, 2010, for violation of Welfare and Institutions Code section 17520 (failure to pay family support), and the suspension was lifted on July 13, 2010; defendant's contractor license was suspended on October 17, 2010, for violation of Welfare and Institutions Code section 17520 (failure to pay family support), and reinstated on December 7, 2010; defendant's contractor license was suspended on March 4, 2011, for violation of Business and Professions Code section 7125.2 (failure to have Worker's Compensation Insurance), and expired while under said suspension which remains in effect; defendant's contractor license was suspended on March 13, 2011, for violation of Welfare and Institutions Code section 17520 (failure to pay family support), and expired while under said suspension which remains in effect; defendant's contractor license was suspended on March 18, 2011, pursuant to Code of Civil Procedure section 996.340 (contractor's bond), and expired while under said suspension which remains in effect; defendant's contractor license was suspended on June 28, 2011, pursuant to Business and Professions Code section 7071.11 (bond payments of claim #31176-1 & 31176-02 & 31176-03), and expired while under said suspension which remains in effect.

*Note, defendant signed construction contract and demanded excessive down payment, as alleged in criminal complaint, while his contractor license was suspended, on June 3, 2010. Respondent worked on said construction contract while his licensed was suspended from June 3, 2010, through July 20, 2010 when his license was reinstated.

II. CSLB HAS AUTHORITY TO REQUEST RESTRICTION AND REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE

The Contractors' State License Board (CSLB) is the agency charged with protecting the public from dangerous, incompetent, or dishonest contractors. CSLB is a state agency authorized under the Contractors' State License Law (Bus. & Prof. Code, § 7000 et seq.) to license and regulate the contracting business in California.

To help fulfill that responsibility, the Legislature has authorized the CSLB to voluntarily appear in criminal proceedings, make recommendations regarding specific conditions of probation, and otherwise assist the court to protect the public interest.

Penal Code section 23 states, in pertinent part:

> In any criminal proceeding against a person who has been issued a license to engage in a business or profession by a state agency pursuant to provisions of the Business and Professions Code, . . .the state agency which issued the license may voluntarily appear to furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public, or may be ordered by the court to do so, if the crime charged is substantially related to the qualifications, functions, or duties of a licensee. For purposes of this section, the term "license" shall include a permit or a certificate issued by a state agency. For purposes of this section, the term "state agency" shall include any state board, commission, bureau, or division created pursuant to the provisions of the Business and Professions Code, . . .to license and regulate individuals who engage in certain businesses and professions. (Emphasis added.)

Penal Code section 23 is a liberally designed statute adopted by the Legislature to promote public protection and to assist the court in accomplishing that end. No formal procedures or format are mandated when an agency makes an appearance and recommendation. The statute recognizes that licensing agencies, such as the Contractors' State License Board, have a compelling and urgent interest in cases in which licensees are charged with crimes substantially related to the qualifications, functions, and duties of their profession.

In this elder abuse criminal case, defendant is charged with the following felony violations, all arising from his work as a licensed contractor. Defendant Wagner is expected to plead guilty to some or all of the following criminal charges at his readiness conference on December 9, 2011.

Count 1: Penal Code section 460 – Burglary on August 4, 2010, of a dwelling, with enhancements pursuant to Penal Code sections 667.9 (a) (victim was over age of 65), and 667.5(c)(21) (dwelling was inhabited at time of burglary);

Count 2: Penal Code section 460 – Burglary on August 12, 2010, of a dwelling, with enhancements pursuant to Penal Code sections 667.9 (a) (victim was over age of 65), and 667.5(c)(21) (dwelling was inhabited at time of burglary);

Count 3: Penal Code section 460 – Burglary on September 7, 2010, of a dwelling, with enhancements pursuant to Penal Code sections 667.9 (a) (victim was over age of 65), and 667.5(c)(21) (dwelling was inhabited at time of burglary);

Count 4: Penal Code section 460 – Burglary on September 21, 2010, of a dwelling, with enhancements pursuant to Penal Code sections 667.9 (a) (victim was over age of 65), and 667.5(c)(21) (dwelling was inhabited at time of burglary);

Count 5: Penal Code section 530.5 – Theft from an elderly person over age of 65, of valuables worth over $950.00 in violation of Penal Code section 368 (d);

Count 6: Penal Code section 460 – Diversion of Constructions Funds over $2,350 on August 4, 2010, and August 11, 2010;

Count 7: Business and Professions Code section 7159.5 (a) (3) on August 4, 2010, demanded and received an excessive down payment for a home improvement contract;

Count 8: Penal Code section 484 (b) – Diversion of Constructions Funds over $2,350 between June 3, 2010 and August 2, 2010, and failed to pay for services after receiving funds to pay for said services;

Count 9: Penal Code section 476 (a) – Non-Sufficient Fund Check on June 29, 2010, to pay for constructions related goods and services; and,

Count 10: Penal Code section 476 (a) – Non-Sufficient Fund Check on June 30, 2010, to pay for constructions related goods and services.

Defendant's alleged illegal and unprofessional conduct, while working as a licensed contractor, all involve his abuse of the privileges provided by his contractor license. For example, defendant was acting in the capacity of a contractor when he demanded excessive payments from an elderly client including, an excessive down payment, and at least three demands for payments in excess of the value of the construction good or services that he had performed. The elderly client suffered a financial injury in the tens of thousands of dollars. The criminal charges involving insufficient funds checks also arise directly from defendant's duties and functions as a licensed contractor. Defendant wrote the insufficient funds checks in his capacity as a contractor to pay for construction related goods and services. Defendant's illegal

and unprofessional conduct clearly demonstrated the risk of harm presented by his performance of the fundamental functions, qualifications, or duties of a licensed contractor.

III. THIS COURT HAS AUTHORITY TO REVOKE DEFENDANT'S LICENSE, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 7106

Independent of Penal Code section 23, the Legislature has granted the Court further authority to revoke a contractor's license, in Business and Professions Code section 7106, which provides:

> The suspension or revocation of license as in this chapter provided may also be embraced in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor.

Contractor licenses are one of a very small number of professional licenses issued in the State of California which the Legislature has granted the criminal and civil courts authority to directly suspend or revoke. All other professional licenses may only be revoked by the licensing agency from which they were issued.

The criminal charges in this case directly arise from defendant's conduct as a licensed contractor. Defendant's unlawful conduct is especially egregious because he preyed upon one of the most vulnerable classification of homeowners, the elderly. As in this case, an elderly consumer's home is their primary financial asset. The elderly are vulnerable physically and emotionally to abuse by unscrupulous or dishonest contractors who use their contractor license to gain access to the elder's home and financial resources. Immediate revocation of defendant's license is warranted by the egregious nature of defendant's illegal and unprofessional conduct. A copy of CSLB's Investigation Report regarding the Horton Project, underlying the criminal charges in this action, is attached hereto as Attachment A and incorporated by reference.

As an alternative to seeking a revocation order pursuant to Business and Professions Code section 7106 and Penal Code section 23, CSLB can take disciplinary action against defendant if and when there is a conviction in this criminal matter. (See Declaration of Loretta A. West.) Also, CSLB could seek an interim suspension order before an administrative law judge, or an

injunction or temporary restraining order in superior court. (Bus. and Prof. Code sections 494, 125.7.) However, all of these alternatives would add fiscal and administrative burdens that could interfere with defendant's constitutional rights, increase costs to defendant and delay public protection.

Penal Code section 23 and Business and Professions Code section 7106 authorize this Court to issue an Order revoking defendant Wagner's contractor licensee. Issuing a revocation order under Penal Code section 23 and Business and Professions Code section 7106 early in the criminal proceedings protects the public, prevents duplicity of litigation, protects the defendant's due process rights, saves costs for the defendant and the state, and avoids inconsistent outcomes, all without potentially precluding or prejudicing the prosecution of the criminal matter.

IV. DEFENDANT HAS RECEIVED NOTICE OF APPLICANT'S APPEARANCE IN THIS PROCEEDING

On December 1, 2011, counsel for CSLB contacted defendant's attorney Dawnella Gilzean, and gave notice of the Board's intent to appear at defendant's December 9, 2011, readiness conference pursuant to Penal Code section 23 and request immediate revocation of defendant's contractor license pursuant to Business and Professions Code section 7106. Ms. Gilzean stated that she would accept service by e-mail of any papers Applicant may file in this matter. On December 8, 2011, Ms. Gilzean was served by e-mail with the following documents: Notice of Appearance and Recommendation by State Licensing Agency for Revocation of Defendant's Contractor License and Prohibition of Contracting Unless Duly Licensed; Memorandum of Points and Authorities in Support of Applicant's Recommendation, Pursuant to Penal Code Section 23, for Revocation of Defendant's Contractor License; Declaration of Deputy Attorney General Loretta A. West In Support of Recommendation of State Licensing Agency; Stipulation Re: Revocation of Defendant's Contractor License; (Proposed) Order Re: Revocation of Defendant's Contractor License; and an alternative (Proposed) Order Re: Revocation of Defendant's Contractor License. (See Declaration of Deputy Attorney General Loretta A. West.)

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V. THIS COURT HAS AUTHORITY TO IMPOSE, AS A CONDITION OF O.R. RELEASE, BAIL OR PROBATION, AN ORDER PROHIBITING A DEFENDANT FROM ACTING AS A CONTRACTOR UNLESS DULY LICENSED, TO PROTECT THE PUBLIC

The Court has broad discretion to issue, as a condition of own recognizance release (O.R.), bail or probation, an order prohibiting a defendant from engaging in any vocational or professional occupation, or forbid conduct related to possible future criminality, if the occupation relates to the crimes charged, thereby serving to protect the public. (See, *In Re York* (1995) 9 Cal.4th 1133, 1141-1145 [O.R. condition of pretrial release that defendants submit to random drug screening and warrantless search and seizures held valid for public safety where defendants charged with crimes related to controlled substances]; See also, *People v. Keefer* (1973) 35 Cal.App.3d 156, 168-169 [probation condition that defendant not engage in the furnace or heating business, either directly or indirectly, during period of probation, held valid to deter further criminality, foster rehabilitation and to protect the public where defendant had been charged and convicted of two counts of grand theft and one count of attempted grand theft based on false pretenses and fraudulent statements related to sales of furnaces and heaters to consumers]; *People v. Frank* (1949) 94 Cal.App.2d 740, 741-742 [probation condition that defendant licensed pediatrician not practice medicine for duration of entire five year probation period held valid where defendant charged and found guilty of committing a lewd and lascivious act upon a 10 year old girl while treating her as a patient].)

Several statutes allow the Court to consider, and reconsider, the terms of a defendant's bail, or release on his own recognizance (O.R.) during the pendency of a criminal case. (Pen. Code § 1275: imposition of bail; Pen. Code § 1313: own recognizance; Pen. Code § 1289: increase or decrease bail for good cause after a defendant has been admitted to bail upon an indictment or information; Pen. Code § 1273 and 1277: bail set when the defendant is held to answer after the preliminary examination.)

The Court may place restrictions upon a defendant as a condition of bail to insure public safety. Specifically, Penal Code § 1275 (a) was amended in 1985 to state, in pertinent part, "In

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setting, reducing, or denying bail, the judge or magistrate **shall take into consideration the protection of the public,** the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of this case. **The public safety shall be the primary consideration."** (Emphasis added.)

Similarly, Penal Code § 1318 expressly provides that a defendant released on his or her own recognizance must promise to obey "all reasonable conditions" imposed by the court as a condition of release pending trial. In *In Re York* (1995) 9 Cal.4th 1133, the Supreme Court stated that the "reasonable conditions" contemplated by the statute went beyond merely assuring a defendant's future appearances in court, but instead empowered a court to impose appropriate conditions "that relate to the prevention and detection of further crime and thus to the safety of the public." (*Id.* at 1145.) The only limitation on this power is that the court must make a specific individualized determination that the condition is appropriate with respect to the defendant and that the condition is necessary for public protection.

The Court of Appeal has confirmed that the court can impose conditions on bail or own recognizance release; including suspension from the practice of medicine, if the condition is reasonable to protect the public. (*Gray v. Superior Court of Napa County (Medical Board)* (2005) 125 Cal.App.4th 629.)

In this case, revoking defendant's contractor license and prohibiting defendant from practicing as a contractor unless duly licensed, should be included as a term of defendant's own recognizance release, bail, or probation in order to further protect the public and provide more incentive for defendant to comply with the laws governing licensed contractors. It is important to note that defendant's prior unlawful conduct as a contractor has caused his contractor license to be suspended and has caused financial harm to consumers on several occasions. Suspension of defendant's contractor license apparently may not be an effective deterrent to prevent defendant from engaging in illegal and harmful conduct as a contractor. The additional incentive of complying with his criminal probation may provide defendant with some necessary motivation to comply with the laws that govern contractors and to maintain his contractor license in good standing.

VI. THE "PRESUMPTION OF INNOCENCE" DOCTRINE APPLIES ONLY AT THE TIME OF TRIAL AND MAY NOT BE CONSIDERED IN A PRETRIAL DETERMINATION OF CONDITIONS FOR O.R. RELEASE OR BAIL

"The presumption of innocence is a doctrine that allocates the burden of proof in criminal trials . . . but it has no application to a determination of the rights of a pretrial detainee during confinement before his trial has even begun." (*In re York, supra*, 9 Cal.4th 1133, 1148, quoting *Bell v. Wolfish* (1979) 441 U.S. 520, 533.) The *York* court noted that the rule set forth in *Bell* mirrored well-established California law, which holds that no presumption of innocence attaches to a pretrial determination of the amount of bail to be set.

Consequently, in determining whether this court should impose a pretrial ban from practice or operation as a condition of O.R. release or bail upon defendant, it should **not** consider the presumption of innocence, which is applicable only at trial. Instead, this court should consider only the issue of whether such condition relates to the prevention or deterrence of further criminal activity and thus, the protection of public welfare and safety. (*In re York, supra*, 9 Cal.4th 1133, 1145, 1147-1148.)

BOARD RECOMMENDATION

Consideration of the above points and authorities, in light of the circumstances of the acts charged in the Complaint, demonstrate that defendant Wagner is a serious threat to the public health and safety if he is allowed to continue working as a licensed contractor.

For the foregoing reasons, and in order to protect the public safety, Stephen P. Sands, Registrar of Contractors of the Contractors' State License Board, respectfully requests that this court issue an Order revoking defendant Carl Jacob Wagner's Contractor License No. 897674 and

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also issue an Order prohibiting defendant from acting as a contractor unless duly licensed, as a condition of his own recognizance release, bail or probation.

DATED: December 8, 2011

EDMUND G. BROWN JR.
Attorney General of the State of California

Loretta A. West

LORETTA W. WEST
Deputy Attorney General
Attorneys for Applicant
Stephen P. Sands, Registrar
Contractors State License Board
Department of Consumer Affairs
State of California

DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC MAIL

Case Name: **People v. Carl Jacob Wagner**
No.: **CD 235894**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 8, 2011, I served the attached **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF BY STATE LICENSING AGENCY'S RECOMMENDATION FOR REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE** by transmitting a true copy via electronic mail and placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Email address:
dawnella.gilzean@sdcounty.ca.gov

Dawnella Gilzean
San Diego Public Defender
450 B Street Ste 900
San Diego, CA 92101
Attorney for: Carl Jacob Wagner

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 8, 2011, at San Diego, California.

Charlette Sheppard
Declarant

Signature

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EDMUND G. BROWN JR.
Attorney General of California
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Attorneys for Applicant, Stephen P. Sands, Registrar, Contractors State Licensing Board

SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. CARL JACOB WAGNER, Defendant. STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA Applicant.	Case No. CD235894 **DECLARATION OF DEPUTY ATTORNEY GENERAL LORETTA A. WEST IN SUPPORT OF RECOMMENDATION OF STATE LICENSING AGENCY** **DATE: December 9, 2011** **TIME: 8:15 a.m.** **DEPARTMENT: 30**

I, Loretta A. West, declare:

1. I am an attorney licensed to practice in the State of California, and am employed with the California Department of Justice as a Deputy Attorney General in the Licensing Litigation Section in San Diego. I have personal knowledge of the following facts, and if called as a witness, I could and would competently testify thereto.

2. In my capacity as a Deputy Attorney General, I am the attorney of record assigned to make an appearance in this case on behalf of Stephen P. Sands, Registrar of Contractors, Contractors' State License Board (CSLB), Department of Consumer Affairs, State of California to request the following: that under the authority of Business and Professions Code section 7106, the Court issue an Order to revoke General Building Contractor License No. 897674-B held by Carl Jacob Wagner, as sole owner doing business as That Guy Construction; and, that the Court issue an Order to prohibit defendant from acting as contractor unless duly licensed, as a condition of his own recognizance release, bail or probation.

3. CSLB records state that defendant was issued General Building Contractor License No. 897674-B, on June 4, 2007, as sole owner and doing business as That Guy Construction. The license expired under suspension on June 30, 2011. A licensee may renew an expired license within three (3) years after its expiration (Bus & Prof. Code sec. 7153.3(b). Unless defendant's license is restricted by court or administrative action, defendant can renew his license and continue to act as a licensed contractor as long as he pays required fees and/or fines.

4. As a member of the Licensing Litigation Section for the Attorney General's Office, I am personally familiar with the procedures that are available to obtain discipline against defendant's contractor license through the administrative process.

5. The alleged criminal conduct constitutes violations of the Contractors' State License Law, and will subject defendant's contractor's license to discipline through the administrative process.

6. Proceeding administratively prior to completion of this criminal action constitutes a duplication of scarce State resources. It jeopardizes defendant's right against self-incrimination, as he can be called as a witness by the CSLB at an administrative hearing, and if he fails to present a defense, that may be construed against him, unlike in the current criminal proceeding.

7. It is the position of the Registrar of Contractors that based on these charges, and CSLB's investigation thereof, defendant Wagner is unsafe to operate as a licensed contractor, and his contractor license should be revoked, and he should be prohibited from acting as a licensed contractor unless duly licensed, as a condition of his own recognizance release, bail or probation.

8. Public protection is of utmost concern at this juncture.

9. On December 1, 2011, I telephoned and spoke to defendant's attorney Dawnella Gilzean at (619) 338-4701. I told her that I represent the CSLB and I gave her notice of the CSLB's intent to make an appearance pursuant to Penal Code section 23 at her client's December 9, 2011, criminal readiness conference and to request that the Court issue an Order to revoke defendant's contractor license pursuant to Business and Professions Code section 7106, and to further request that the Court issue an Order to prohibit defendant from acting as contractor unless duly licensed, as a condition of his own recognizance release, bail or probation. Attorney Gilzean agreed to accept service by e-mail of any papers CSLB may file in this action.

10. On December 8, 2011, my office served Ms. Gilzean by e-mail with the following documents: Notice of Appearance and Recommendation by State Licensing Agency for Revocation of Defendant's Contractor License and Prohibition of Contracting Unless Duly Licensed; Memorandum of Points and Authorities in Support of Applicant's Recommendation, Pursuant to Penal Code Section 23, for Revocation of Defendant's Contractor License; Declaration of Deputy Attorney General Loretta A. West In Support of Recommendation of State Licensing Agency; Stipulation Re: Revocation of Defendant's Contractor License; (Proposed) Order Re: Revocation of Defendant's Contractor License; and, an alternative (Proposed) Order Re: Revocation of Defendant's Contractor License.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8th day of December 2011, in San Diego, California.

Loretta A. West

LORETTA A. WEST
Deputy Attorney General
Declarant

DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC MAIL

Case Name: **People v. Carl Jacob Wagner**
No.: **CD 235894**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

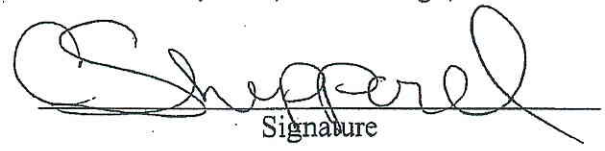
On December 8, 2011, I served the attached **DECLARATION OF DEPUTY ATTORNEY GENERAL LORETTA A. WEST IN SUPPORT OF RECOMMENDATION OF STATE LICENSING AGENCY** by transmitting a true copy via electronic mail and placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Email address:
dawnella.gilzean@sdcounty.ca.gov

Dawnella Gilzean
San Diego Public Defender
450 B Street Ste 900
San Diego, CA 92101
Attorney for: Carl Jacob Wagner

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 8, 2011, at San Diego, California.

Charlette Sheppard
Declarant



Signature

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. CARL JACOB WAGNER, Defendant. STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA Applicant.	Case No. CD235894 **NOTICE OF APPEARANCE AND RECOMMENDATION BY STATE LICENSING AGENCY FOR REVOCATION OF DEFENDANT'S CONTRACTOR'S LICENSES, AND PROHIBITION OF CONTRACTING UNLESS DULY LICENSED** **[Penal Code Section 23; Business and Professions Code Section 7106]** **DATE: December 9, 2011** **TIME: 8:15 a.m.** **DEPARTMENT: 30**

TO THE CLERK OF THE ABOVE COURT:

PLEASE TAKE NOTICE that on December 9, 2011, at 8:15 am, or as soon thereafter as the matter may be heard, in Department 30 of the above-entitled court, applicant Stephen P. Sands, in his official capacity as the Registrar for the Contractor's State License Board, Department of Consumer Affairs, State of California ("Applicant"), by and through its attorneys, Kamala D. Harris, Attorney General of the State of California, by Loretta A. West, Deputy

Attorney General, requests an opportunity to appear before this Court pursuant to Penal Code section 23 to recommend that this Court issue an order revoking defendant Carl Jacob Wagner's contractor license on the grounds that defendant, if allowed to continue acting as licensed contractor, poses a danger to the public health, safety and welfare. Applicant further recommends and requests that this Court issue an order prohibiting defendant Carl Jacob Wagner from directly or indirectly working as a contractor unless duly licensed, as a condition of defendant's own recognizance release, bail, probation, or sentence.

These orders are requested in the interest of justice on the grounds that defendant, who is expected on December 9, 2011, to plead guilty to pending criminal charges alleging, among other things, burglary and theft in connection with his contractor's business, poses a danger to the public health, safety, and welfare, if allowed to continue to possess a contractor's license. This request is being made pursuant to the Court's authority under Penal Code section 23, authorizing the court to consider the Board's recommendations to promote the interests of justice and protect the public when the crimes are substantially related to the qualifications, functions, or duties of the licensee, as well as Business and Professions Code section 7106, authorizing the court to revoke a contractor's license in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor. This request is also being made pursuant to this court's authority to "take into consideration the protection of the public" when imposing conditions for release on bail (Penal Code section 1275) or own recognizance release (Penal Code section 1318), or as a condition of probation.

This request is based upon this Notice and the attached Memorandum of Points and Authorities, the Proposed Order, Declaration of Deputy Attorney General Loretta A. West, the Criminal Complaint, documents submitted in support of the Complaint, any reports and documents submitted in this case which can be considered in any application for any order changing bail (Penal Code sections 1204.5 and 1275), any pre-plea report, all papers, files, other

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memoranda, and exhibits on file herein, and such oral and other documentary evidence as may be presented at the hearing on this request.

Dated: December 8, 2011

EDMUND G. BROWN JR.
Attorney General of California

LORETTA A. WEST
Deputy Attorney General
Attorneys for Applicant
Stephen P. Sands, Registrar
Contractors State License Board
California Department of Consumer Affairs

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DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC MAIL

Case Name: **People v. Carl Jacob Wagner**
No.: **CD 235894**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

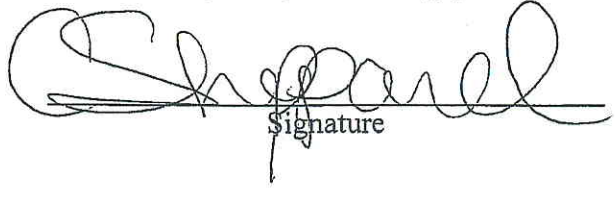
On December 8, 2011, I served the attached **NOTICE OF APPEARANCE AND RECOMMENDATION BY STATE LICENSING AGENCY FOR REVOCATION OF DEFENDANT'S CONTRACTOR'S LICENSES, AND PROHIBITION OF CONTRACTING UNLESS DULY LICENSED** by transmitting a true copy via electronic mail and placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Email address:
dawnella.gilzean@sdcounty.ca.gov

Dawnella Gilzean
San Diego Public Defender
450 B Street Ste 900
San Diego, CA 92101
Attorney for: Carl Jacob Wagner

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 8, 2011, at San Diego, California.

Charlette Sheppard
Declarant



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SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

CARL JACOB WAGNER,

dob 11/07/71

Contractor License No. 897674

Defendant.

STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Applicant.

Case No. CD235894

PROPOSED

ORDER RE: REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE

DATE: December 9, 2011
TIME: 8:15 a.m.
DEPARTMENT: 30

THE COURT HEREBY ORDERS that, under the authority of Business and Professions Code section 7106, General Building Contractor License No. 897674-B issued to That Guy Construction; sole owner Carl Jacob Wagner, shall be and hereby is revoked.

IT IS SO ORDERED

DATED: _____, 2011

JUDGE OF THE SUPERIOR COURT

DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC MAIL

Case Name: **People v. Carl Jacob Wagner**
No.: **CD 235894**

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Dawnella Gilzean
San Diego Public Defender
450 B Street Ste 900
San Diego, CA 92101
Attorney for: Carl Jacob Wagner

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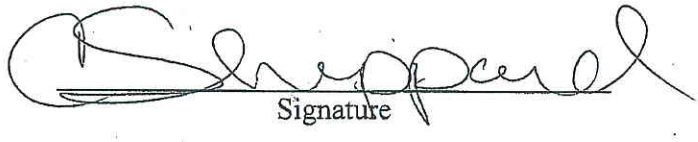
Signature

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EDMUND G. BROWN JR.
Attorney General of California
LINDA K SCHNEIDER
Supervising Deputy Attorney General
LORETTA A. WEST
Deputy Attorney General
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110 West "A" Street, Suite 1100
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Facsimile: (619) 645-2061
Attorneys for Applicant, Stephen P. Sands, Registrar, Contractors State Licensing Board

SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN DIEGO COUNTY
CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. CARL JACOB WAGNER, dob 11/07/71 Contractor License No. 897674 Defendant. STEPHEN P. SANDS, REGISTRAR, CONTRACTORS STATE LICENSE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA Applicant.	Case No. CD235894 **STIPULATION RE: REVOCATION OF DEFENDANT'S CONTRACTOR LICENSE** **DATE: December 9, 2011** **TIME: 8:15 a.m.** **DEPARTMENT: 30**

IT IS HEREBY STIPULATED THAT the Court may revoke General Building Contractor License No. 897674-B held by That Guy Construction; sole owner Carl Jacob Wagner, pursuant to Business and Professions Code section 7106.

DATED: _____, 2011

_____
CARL JACOB WAGNER
Defendant and Sole Owner of
That Guy Construction

DATED: _____, 2011

_____
LORETTA A. WEST
Deputy Attorney General
Attorneys for Applicant
Stephen P. Sands, Registrar
Contractors State License Board
Department of Consumer Affairs
State of California

IT IS SO ORDERED

DATED: _____, 2011

_____
JUDGE OF THE SUPERIOR COURT

DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC MAIL

Case Name: **People v. Carl Jacob Wagner**
No.: **CD 235894**

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