

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

In the Matter of the Accusation Against:

W E CONSTRUCTION, INC.

15421 Carmenita Road, #P
Santa Fe Springs, CA 90670
Sung Sig Park, RMO/CEO/President

License No. **558339**, B, C33

Respondent

CASE NO. N2011-498

OAH NO. 2013080108

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and Section 870 of the Code of Regulations, respondent (namestyle of respondent), License Number **W E CONSTRUCTION, INC.**, shall not apply for reissuance or reinstatement of any license for one year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that Respondent shall pay the investigative costs in the amount of \$8,574.82, prior to issuance of a new or reinstated license pursuant to Business and Professions Code section 125.3.

IT IS THE responsibility of the respondents, named in this Decision, to read and follow the Order found in the Proposed Decision.

This Decision shall become effective on March 24, 2014.

IT IS SO ORDERED February 20, 2014.


Stephen P. Sands
Registrar of Contractors

INFORMATION PURSUANT TO §11521 OF THE GOVERNMENT CODE

If you wish to file a Petition for Reconsideration pursuant to Government Code §11521, the text which appears below for your review, the Petition must be received prior to the effective date of the Decision. However, please be aware that the Board needs approximately 5 working days to process a Petition. Petitions should be sent to the following address: CONTRACTORS STATE LICENSE BOARD, P.O. BOX 269121, SACRAMENTO, CA 95826, ATTN: LEGAL ACTION DEPUTY. Fax documents can be sent to (916) 255-3933.

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

**BEFORE THE
CONTRACTORS' STATE LICENSE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

W E CONSTRUCTION, INC.,

Contractor's License No. 558339

Respondent.

Case No. N2011-498

OAH No. 2013080108

PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 7, 2014, in Los Angeles.

Michael A. Cacciotti, Deputy Attorney General, represented Complainant.

Sung Sig Park represented respondent W E Construction, Inc. Park is the responsible managing officer (RMO), chief executive officer (CEO), and president of W E Construction, Inc.

Oral and documentary evidence was received and argument was heard. The record was closed and the matter was submitted for decision on January 7, 2014.

FACTUAL FINDINGS

1. Wood Robinson (Complainant) brought the First Amended Accusation in his official capacity as an Enforcement Representative I of the Contractors' State License Board, Department of Consumer Affairs (Board). Sung Sig Park submitted a Notice of Defense on behalf of respondent W E Construction, Inc., which contained a request for a hearing.

2. On February 24, 1989, the Registrar of Contractors (Registrar) issued contractor's license number 558339, classification B (general building contractor), to Sung Sig Park, as a sole ownership license. On November 16, 1994, classification C-33 (painting and decorating) was added to the license. On February 20, 2004, pursuant to Business and Professions Code section 7075.1, the license was reassigned to respondent W E Construction, Inc., with Sung Sig Park as RMO/CEO-President, and Chang Mi Park and John Chunghan Kim as officers. In July 2013, Chang Mi Park and John Chunghan Kim

disassociated from respondent W E Construction, Inc. The license is renewed to February 28, 2014.

3. Sung Sig Park (Park) is the only remaining officer of W E Construction, Inc. (Respondent). Respondent has no employees at this time. Park testified that Respondent did have five employees (excluding the corporation's officers) back in October 2011/early 2012.

Application for Additional Classification

4. On July 27, 2011, the Board received an Application for Additional Classification from Park which sought to add classification A (general engineering contractor) to Respondent's license number 558339 (application). The application was dated July 18, 2011 and signed by Park as the RMO/President of Respondent. By signing the application, Park certified that all statements, answers, and representations made in the application, including all supplementary statements attached to the application, were true and accurate and that he reviewed the entire contents of the application.

5. (A) As part of the application, Park submitted three different Certification of Work Experience forms to the Board for the purpose of establishing his qualifying experience as a general engineering contractor, classification A. The Certification forms are dated July 18, 2011, October 1, 2011, and February 2, 2012, respectively, and were submitted to the Board on or about those dates. Hee Seong Shin is identified on the three forms as the "certifier" for the information contained on the forms.

(B) The Certification of Work Experience form dated July 18, 2011 (July 2011 Certification) states that from January 1, 2007, to July 1, 2011, Park "has been performing and supervising construction works related to General Engineering trade such as flood control, water power and supply, sewage disposal plants and system, sewers, waste reduction plants, pipelines, trenching, excavation, grading, paving and etc." (Exh. 6.)

(C) The Certification of Work Experience form dated October 1, 2011 (October 2011 Certification) states that from February 1, 2006, to December 1, 2010, Park performed or supervised the following trade duties: "concrete paving" and "block wall setting." (Exh. 7.)

(D) The Certification of Work Experience form dated February 2, 2012 (February 2012 Certification) states that from January 1, 2007 to July 1, 2011, Park "has been performing & supervising construction works related to General Engineering trade such as flood control, water, power, supply, sewage disposal plants & system, sewers, waste reduction plants, pipelines, trenching, excavation, grading, paving & etc." (Exh. 8.)

6. Classification A (general engineering contractor) has not been added to Respondent's contractor license. On three separate occasions, Park has taken and failed the

trade examination required for issuance of a classification A contractor's license. In addition, the three Certification forms submitted by Park as part of the application were rejected by the Board due to insufficient qualifying experience for a classification A license.

Board's Investigation

7. Rolando Garcia (Garcia) has been employed by the Board as an investigator for the past five years. He is assigned to the Application Investigation Unit where his duties include reviewing applications and documents to ensure that the information submitted to the Board is correct. Prior to his employment with the Board, Garcia worked for a general engineering contractor in Sacramento. Prior to that, Garcia was employed by the Department of Justice working in narcotics, and also previously as a deputy sheriff. Investigator Garcia testified credibly at this hearing.

8. On February 29, 2012, Investigator Garcia was assigned to conduct an additional classification license investigation regarding Park's application to add classification A to Respondent's license. Garcia reviewed the application and the three Certification forms submitted by Park. Since the certifier, Hee Seong Shin (Shin), was a contractor licensed by the Board, Shin's signature on his license application and renewals was contained in the Board's database. Investigator Garcia compared Shin's genuine signature from the Board's database with the signatures on the October 2011 and February 2012 Certification forms. Investigator Garcia found that the signature on the October 2011 Certification was similar to Shin's genuine signature. However, the signature on the February 2012 Certification appeared to be different from Shin's genuine signature. Garcia found that the first letter of the signature seemed exaggerated, and the line running through all of the letters was different from the line running through the letters in Shin's genuine signature.

9. Investigator Garcia contacted Shin regarding the signatures on the Certification forms submitted by Park. Garcia spoke by telephone with Shin on March 7 and 9, 2012. He also faxed copies of the October 2011 and February 2012 Certification forms to Shin for his review. Shin indicated to Garcia that he knew Park and had hired him in the past as a subcontractor to do general contractor, classification B, work. Shin remembered signing one form indicating that Park was qualified in concrete and masonry. Shin confirmed to Garcia, verbally and in writing, that the only form he signed was the October 2011 Certification; he did not sign the February 2012 Certification; and his signature on the February 2012 Certification had been forged.

10. On March 12, 2012, Investigator Garcia spoke by telephone with Park regarding the three Certification forms he had submitted to the Board. During the conversation, Garcia asked Park if he knew that the February 2012 Certification contained a falsified signature. Park explained that he asked Shin to sign the October 2011 Certification form, which Shin did. When that form was rejected by the Board, Park asked Shin to sign

another Certification form. Shin refused to sign another Certification form. Park admitted to Garcia that he made up the February 2012 Certification and submitted the Certification to the Board as part of the application. Park told Garcia that he was sorry for his conduct.

11. Park testified at this hearing. He admitted that he forged Shin's signature on the February 2012 Certification. Park explained that since Shin had previously signed the October 2011 Certification, he thought it would be all right to copy Shin's signature on another Certification form. This explanation does not excuse or mitigate Park's conduct. Park's own testimony established that he did not have Shin's permission to sign Shin's name to another Certification form, given that Shin refused to sign the form himself. Further, as a contractor with 22 years of experience, Park can reasonably be expected to have known that signing Shin's name, without permission, on a form to be submitted to the Board related to Respondent's license was improper.

12. By submitting the February 2012 Certification to the Board, Park, as Respondent's RMO/President, made a misrepresentation of material fact in an application to add a classification to Respondent's license, in violation of Business and Professions Code section 7112.

General Engineering Contractor - Classification A

13. Under Business and Professions Code section 7056, a general engineering contractor is defined as "a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, powerplants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above-mentioned fixed works."

14. Investigator Garcia's testimony established that the type of work performed under a classification A license is generally large public works projects, such as those specified in section 7056, and are typically done by large companies which have the resources needed to complete such large scale projects. Garcia testified that some of the work experience listed in the Certification forms Park submitted to the Board raised concerns because the work Park claimed to have done, such as flood control, water power and supply,

and sewage disposal plants and systems, was not the type of work typically done by a one-man operation or self-employed contractor like Park.

15. Park testified he has worked as a contractor for 22 years. For 15 years, from approximately February 1989 to February 2004, Park was licensed and worked as a sole ownership general contractor, classification B, and in classification C-33 (painting and decorating.). According to Park's testimony, he has worked on residential projects and small scale commercial projects, such as landscaping and remodeling interior office spaces in commercial buildings. Park has done grading, trenching, excavating, paving, and flood control (i.e., pumping out water from a project site) which was small-scale and incidental to his work as a general contractor. Park also testified that he has done "side work" such as asphalt, concrete, and sewage. Park's license was reassigned to Respondent in 2004. Park testified that Respondent has not worked on any of the types of large scale projects listed in Business and Professions Code section 7056. For example, Park testified Respondent has no experience doing engineering work on bridges or highways, or sewage disposal plants and systems. Park admitted the work experience described in the February 2012 Certification were things he copied from a book.

Other Matters

16. No evidence was presented of any prior disciplinary action by the Board against Respondent's license.

17. Park presented a document from the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI) indicating that an analysis of a finger print submission from Park was completed on November 16, 2011, and the results showed that Park had no arrest record with the FBI. (Exh. A.)

18. Park applied to add classification A to Respondent's license as a means to generate business, because his workload as a general contractor has decreased. Park testified he plans to retire in a few years.

19. During his testimony, Park express remorse, regret, and embarrassment for his conduct of forging Shin's signature on the February 2012 Certification. Park was contrite and appeared sincere in expressing remorse and acknowledging responsibility for his misconduct.

20. Park lives at home with his wife, one minor child (age 12), and two adult children (ages 23 and 25). Park testified that the monthly mortgage on the home is approximately \$2,100, which is paid with the income his wife earns by selling homemade soaps on the internet. Park testified his wife's income is \$1,500 per month, the family has approximately \$1,000 in the bank, and, after paying the mortgage, the family has only \$400 to \$500 left to pay their other living expenses.

Cost Recovery

21. The Board incurred reasonable costs in the investigation and enforcement of this case in the amount of \$8,574.82.

LEGAL CONCLUSIONS

1. Business and Professions Code section 7090 provides 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."¹

2. Section 7112 provides, in pertinent part: "[M]isrepresentation of a material fact by . . . a licensee . . . in adding a classification to an existing license constitutes cause for disciplinary action."

3. Respondent's contractor's license is subject to disciplinary action, pursuant to sections 7090 and 7112, in that Respondent, through the actions of Park, made a misrepresentation of a material fact in an application to add a classification to its existing license by submitting the February 2, 2012 Certification of Work Experience form that contained a falsified signature, based on Factual Findings 4-10 and 12.

4. The purpose of administrative disciplinary actions against a contractor's license is to protect the public; it is not intended to punish the licensee. "[T]he purpose of a disciplinary proceeding . . . is to determine the fitness of a licensed contractor to continue in that capacity. It is not intended for the punishment of the individual contractor, but for the protection of the contracting business as well as the public by removing, in proper cases, either permanently or temporarily, from the conduct of a contractor's business a licensee whose method of doing business indicates a lack of integrity upon his part or a tendency to impose upon those who deal with him." (*West Coast Home Improvement v. Contractors' State License Bd.* (1945) 72 Cal.App.2d 287, 301-302.)

5. (A) The Board's Disciplinary Guidelines (rev. 12/11/96) (Guidelines) are set forth at California Code of Regulations, title 16, section 871. The Guidelines set forth factors to be considered in determining whether revocation, suspension, or probation is to be imposed in a given case. The factors to be considered include but are not limited to: the nature and severity of the acts under consideration, actual or potential harm to the public, prior disciplinary record, number and variety of current violations, mitigation evidence, and rehabilitation evidence.

¹ All further statutory references are to the Business and Professions Code unless otherwise indicated.

(B) The Guidelines also include minimum and maximum penalties for various violations of the Contractors License Law. For a violation of section 7112, the maximum recommended penalty is revocation, and the minimum recommended penalty is a stayed revocation with three years' probation. The Guidelines further provide: "Absent compelling mitigating circumstances, misrepresentation is a serious offense that warrants an outright revocation."

6. (A) In this case, the revocation of Respondent's license is warranted to ensure public protection. Park, as Respondent's RMO, submitted a certification of work experience form to the Board containing a forged signature and falsified information, for the purpose of obtaining an additional, specialized classification on Respondent's license. Park knew the signature and information were false because he prepared and forged the signature on the document. The October 2012 Certification that was signed by Shin only certified Park's work in "concrete paving" and "block wall setting." Yet in the February 2012 Certification, Park forged Shin's signature and added other work experience that was not certified by Shin. Park's actions reflect poorly on his character for honesty and truthfulness in matters pertaining to his licensure by the Board. Park's actions posed a serious risk of potential harm to the public. Because a classification A license authorizes engineering work on large public works projects, issuance of a classification A license based on falsified information creates a serious risk of potential harm to consumers and the general public.

(B) The Board has deemed misrepresentation of material facts in license applications to be a serious offense that warrants revocation absent compelling mitigating circumstances. (Guidelines, p. 13 [Exh. 10].) In Park's favor, there is no evidence of Park or Respondent having a prior disciplinary record with the Board. Also, Park was sincere in expressing remorse and accepting responsibility for his misconduct. These circumstances, however, do not establish "compelling mitigating circumstances" to justify deviating from the Guidelines. Respondent's license shall be revoked.

7. Pursuant to section 7121, since discipline is imposed in this case on contractor's license number 558339, issued to W E Construction, Inc., with Sung Sig Park as RMO/CEO-President, Sung Sig Park shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual for any licensee during the time the discipline is imposed, and any licensee which employs, elects or associates Sung Sig Park in any capacity other than as a non-supervising bona fide employee may be subject to disciplinary action.

8. Pursuant to section 7121.5, since discipline is imposed on contractor's license number 558339, issued to W E Construction Inc., with Sung Sig Park as RMO/CEO-President, Sung Sig Park shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual for any licensee during the time the discipline is imposed, whether or not he had knowledge of or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects or associates Sung Sig Park may be subject to disciplinary action.

Cost Recovery

9. Section 125.3 provides, in pertinent part, that the entity bringing a proceeding for discipline may request the ALJ hearing the matter to direct a licensee found to have committed a violation of the applicable licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the proceeding. The reasonable costs of investigating and enforcing this matter are \$8,574.82. (Factual Finding 20.) Inasmuch as Respondent's contractor's license will be revoked, thereby precluding Park from conducting business as a contractor, Respondent and Park will not be ordered to pay these costs at this time. When or if Respondent or Park obtain relicensure or reinstatement of contractor's license number 558339, payment of the costs may be made a condition for relicensure or reinstatement in the discretion of the Board.

ORDER

1. Contractor's license number 558339, classifications B and C-33, issued to re W E Construction Inc., with Sung Sig Park as RMO/CEO-President, is revoked.
2. Any other license issued by the Board for which Sung Sig Park is furnishing the qualifying experience or appearance is revoked.
3. Sung Sig Park is prohibited from serving as an officer, director, associate, partner or qualifying individual of any licensee during the period that discipline is imposed on contractor's license number 558339, issued to W E Construction Inc., with Sung Sig Park as RMO/CEO-President.
4. Pursuant to Business and Professions Code section 125.3, W E Construction, Inc. and Sung Sig Park shall pay to the Board \$8,574.82 for its reasonable costs of investigating and enforcing this proceeding. However, W E Construction, Inc. and Sung Sig Park shall pay such costs when or if they obtain, jointly or separately, relicensure or reinstatement of contractor's license number 558339, as a condition for relicensure or reinstatement in the Board's discretion.

DATE: February 6, 2014



ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings