

1 KAMALA D. HARRIS
2 Attorney General of California
3 JANICE K. LACHMAN
4 Supervising Deputy Attorney General
5 BRIAN S. TURNER
6 Deputy Attorney General
7 State Bar No. 108991
8 1300 I Street, Suite 125
9 P.O. Box 944255
10 Sacramento, CA 94244-2550
11 Telephone: (916) 445-0603
12 Facsimile: (916) 327-8643
13 *Attorneys for Complainant*

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

**MICHAEL JOSEPH CURRY
dba MR CURRY PAINTING
436 W. 11th Avenue
Chico, CA 95926
Contractor's License No. 956245**

Case No. N-2012-390

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Respondent.

Wood Robinson ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation and Petition to Revoke Probation 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 January 3, 2011, the Registrar of Contractors issued probationary Contractor License Number 956245, classification C-33 (Painting and Decorating Contractor), to Michael Joseph Curry ("Respondent"), doing business as Mr. Curry Painting, with terms and conditions, as more particularly set forth below in paragraph 15. On or about January 12, 2012, the license was suspended pursuant to California Code of Civil Procedure section 996.340 (contractor's bond). On or about May 24, 2012, the license was reinstated. On or about

1 September 24, 2012, the license was suspended pursuant to Business and Professions Code
2 (“Code”) section 7125.2 (workers’ compensation). On or about September 27, 2012, the license
3 was suspended pursuant to California Code of Civil Procedure section 996.340 (contractor’s
4 bond). On or about January 31, 2013, the license expired. On or about April 18, 2013, the
5 license was suspended pursuant to Code section 7071.11 (bond payment of claim).

JURISDICTION

7 3. Business and Professions Code (“Code”) section 7090 provides, in pertinent part,
8 that the Registrar may suspend or revoke any license or registration if the licensee or registrant is
9 guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary
10 action.

11 4. Code section 7095 provides, in pertinent part, that the Registrar in making
12 his order may:

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

¹⁹ || 5 Code section 7096 states:

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

23 || 6. Code section 7097 states:

24 Notwithstanding the provisions of Sections 7121 and 7122, when any license
25 has been suspended by a decision of the registrar pursuant to an accusation or
26 pursuant to subdivision (b) of Section 7071.17, Section 7085.6 or 7090.1, any
27 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.

28 | //

1 7. Code section 7098 states:

2 Notwithstanding the provisions of Sections 7121 and 7122, when any license
3 has been revoked under the provisions of this chapter [the Contractors' State License
4 Law], any additional license issued under this chapter in the name of the licensee or
5 for which the licensee furnished qualifying experience and appearance under the
6 provisions of Section 7068, may be revoked by the registrar without further notice.

7 8. Code section 7106.5 states:

8 The expiration, cancellation, forfeiture, or suspension of a license by
9 operation of law or by order or decision of the registrar or a court of law, or the
10 voluntary surrender of a license by a licensee shall not deprive the registrar of
11 jurisdiction to proceed with any investigation of or action or disciplinary proceeding
12 against the license, or to render a decision suspending or revoking the license. Under
13 Code section 7141, a license may be renewed at any time within five years after its
14 expiration.

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

18 10. Code section 7121 states:

19 Any person who has been denied a license for a reason other than failure to
20 document sufficient satisfactory experience for a supplemental classification for an
21 existing license, or who has had his or her license revoked, or whose license is under
22 suspension, or who has failed to renew his or her license while it was under
23 suspension, or who has been a member, officer, director, or associate of any
24 partnership, corporation, firm, or association whose application for a license has been
25 denied for a reason other than failure to document sufficient satisfactory experience
26 for a supplemental classification for an existing license, or whose license has been
27 revoked, or whose license is under suspension, or who has failed to renew a license
28 while it was under suspension, and while acting as a member, officer, director, or
29 associate had knowledge of or participated in any of the prohibited acts for which the
30 license was denied, suspended, or revoked, shall be prohibited from serving as an
31 officer, director, associate, partner, or qualifying individual of a licensee, and the
32 employment, election, or association of this type of person by a licensee in any
33 capacity other than as a non-supervising bona fide employee shall constitute grounds
34 for disciplinary action.

35 11. Code section 7073(e) states:

36 In lieu of denying licensure as authorized under this section, the registrar
37 may issue an applicant a probationary license with terms and conditions. During the
38 probationary period, if information is brought to the attention of the registrar
39 regarding any act or omission of the licensee constituting grounds for discipline or
40 denial of licensure for which the registrar determines that revocation of the
41 probationary license would be proper, the registrar shall notify the applicant to show
42 cause within 30 days why the probationary license should not be revoked. The
43 proceedings shall be conducted in accordance with the provisions of Chapter 5
44 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the

Government Code, and the registrar shall have all the powers granted therein. A probationary license shall not be renewed during any period in which any proceeding brought pursuant to this section is pending.

STATUTORY PROVISIONS

12. Code section 7123 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."

COST RECOVERY

13. Code section 125.3 provides, in pertinent part, that the Registrar may request the administrative law judge to direct a licensee 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.

PETITION TO REVOKE PROBATION

14. On or about January 3, 2011, the Board issued Respondent probationary Contractor License Number 95624. Respondent was placed on probation, in lieu of denial, for a period of four (4) years with terms and conditions. On or about December 22, 2010, Respondent signed and agreed to the terms and conditions of probation set forth in the Acceptance of a Probationary License, attached hereto as **Exhibit A**. Respondent violated Condition Number 1 (Obey All Laws), as more particularly set forth below:

CAUSE TO REVOKE PROBATION

15. At all times after the effective date of Respondent's probation, Condition 1 stated:

Obey All Laws: Probationary Licensee shall comply with all federal, state, and local laws governing the activities of a licensed contractor in California.

16. Respondent's probation is subject to revocation, in that on or about September 25, 2012, Respondent was convicted of violating Vehicle Code section 23152(a) (driving while under the influence of alcohol), a felony, with four prior convictions of the same, as more particularly set forth below in paragraph 17.

111

III

ACCUSATION

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

4 17. Respondent is subject to discipline under Code section 7123, in that on or about
5 September 25, 2012, in the case of *People v. Michael Joseph Curry*, (Super. Ct. Butte County,
6 2012, Case No. CM037104), Respondent was convicted by the Court on his plea of nolo
7 contendere of violating Vehicle Code section 23152(a) (driving while under the influence of
8 alcohol), with four prior violations of the same, a felony. The crime is substantially related to the
9 qualifications, functions and duties of a contractor.

MATTERS IN AGGRAVATION

11 18. On or about November 13, 2002, Respondent was convicted of the following
12 crimes:

13 i. In the case of *People v. Michael Joseph Curry*, (Super. Ct. Butte County, Case
14 No. SCR93904), Respondent was convicted by the Court on his plea of nolo contendere of
15 violating Vehicle Code section 23152(b) (driving a vehicle while having 0.08 percent and more of
16 alcohol in his blood).

17 ii. In the case of *People v. Michael Joseph Curry*, (Super. Ct. Butte County, Case
18 No. NCR94615), Respondent was convicted by the Court on his plea of nolo contendere of
19 violating Vehicle Code section 23152(b) (driving a vehicle while having 0.08 percent and more of
20 alcohol in his blood).

19. On or about January 22, 2003, in the case of *People v. Michael Joseph Curry*,
20 (Super. Ct. Butte County, Case No. SCR94980), Respondent was convicted by the Court on his
21 plea of nolo contendere of violating Vehicle Code section 23152(b) (driving a vehicle while
22 having 0.08 percent and more of alcohol in his blood).

25 20. On or about August 14, 2007, in the case of *People v. Michael Joseph Curry*,
26 (Super. Ct. Butte County, Case No. CM026244), Respondent was convicted by the Court on his
27 plea of nolo contendere of violating Vehicle Code section 23152(b) (driving a vehicle while
28 having 0.08 percent and more of alcohol in his blood), with priors.

OTHER MATTERS

2 21. Pursuant to Code sections 7097 and 7098, if Contractor's License Number 956245,
3 issued to Michael Joseph Curry is suspended or revoked, then the Registrar may suspend or
4 revoke, without notice, any other license issued in the name of Michael Joseph Curry, or for
5 which he furnished the qualifying experience and appearance.

6 22. Pursuant to Code section 7121, if discipline is imposed on Contractor's License
7 Number 956245, issued to Michael Joseph Curry, then Michael Joseph Curry shall be prohibited
8 from serving as an officer, director, associate, partner, or qualifying individual of any licensee
9 during the time the discipline is imposed, and any licensee which employs, elects, or associates
10 him in any capacity other than as a non-supervising bona fide employee shall constitute grounds
11 for disciplinary action.

PRAYER

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

15 1. Revoking or suspending Contractor's License Number 956245, issued to Michael
16 Joseph Curry;

17 2. Prohibiting Michael Joseph Curry from serving as an officer, director, associate,
18 partner, or qualifying individual of any licensee during the period that discipline is imposed on
19 Contractor's License Number 856245, issued to Michael Joseph Curry;

20 3. Revoking or suspending any other license for which Michael Joseph Curry is
21 furnishing the qualifying experience or appearance;

22 4. Ordering Michael Joseph Curry to pay the Registrar of Contractors his costs in the
23 investigation and enforcement of the case according to proof at the hearing, pursuant to Business
24 and Professions section 125.3;

25 5. Ordering Michael Joseph Curry to provide the Registrar with a listing of all
26 contracting projects in progress and the anticipated completion date of each; and,

27 | //

28 | //

1 6. Taking such other and further action as deemed necessary and proper.

2 DATED: 1/10/14

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

6
7 SA2013111107
11174332.doc

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Decision and Order

Contractors' State License Board Case No. *Case Number of Prior Action*****



CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, California 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95826
800-321-CSLB (2752) or 916-255-3900
www.cslb.ca.gov

20100106069
STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor

To: **Criminal Background Unit**
Contractors State License Board

From: Michael Joseph Curry

AppFee#: 20100106069

Subject: ACCEPTANCE of a Probationary License

I hereby notify the CSLB that:

- I understand that I have been offered a probationary license in lieu of denial.
- I wish to be issued a probationary license.
- I understand that I must submit this notice within 90 calendar days of the offer to the Criminal Background Unit of the Contractors State License Board or my application will become void. I also understand that the preferred method of delivery is by fax.
- I understand that by accepting a probationary license, I am required to comply with the following terms and conditions of probation:
 1. Obey All Laws: Probationary Licensee shall comply with all federal, state, and local laws governing the activities of a licensed contractor in California.
 2. Interviews with Regional Deputy: Probationary Licensee and any of Probationary Licensee's personnel of record shall appear in person for interviews with the Regional Deputy or designee upon request and reasonable notice.
 3. Probationary Licensee shall submit copies of documents directly related to the person's construction operations to the Registrar upon demand during the probation period.
 4. Completion of Probation: Upon successful completion of probation, the probation status shall be removed from the contractor's license.

Print Name: Michael Joseph Curry

Signature: Michael Joseph Curry

Date Signed: 12/22/10

