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

In the Matter of the Accusation Against: **AMERICAN FIRE SERVICES INC.,** **dba AMERICAN FIRE PROTECTION** **900 Avenida Acaso #M** **Camarillo, California 93012** **DANNY VICTOR WILLIAMS, RMO** **SCOTT MENDLOLA ARNOLD, OFFICER** **Contractor's License No. , 726110** **C-16 (fire protection contractor)** Respondent.	CASE NO. N2008-486 OAH NO. 2014020963 DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Registrar of Contractors as her 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 **AMERICAN FIRE SERVICES INC., dba AMERICAN FIRE PROTECTION**, License Number **726110**, shall not apply for reissuance or reinstatement of any license for five year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that Respondent shall pay the investigative costs in the amount of $20,755.50, prior to issuance of a new or reinstated license pursuant to Business and Professions Code section 125.3.

IT IS FURTHER ORDERED that Respondent shall comply with the court order to pay restitution in the amount of $42,097.79, with interest to accrue at the rate of ten percent per annum effective March 27, 2014. This amount is to be paid prior to issuance of a new or reinstated license pursuant to Government Code section 11519, subdivision (d).

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 April 13, 2015.

IT IS SO ORDERED March 10, 2015.

Cindi A. Christenson
Registrar of Contractors

A2 -5/09

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

In the Matter of the Accusation Against: AMERICAN FIRE SERVICES INC., dba AMERICAN FIRE PROTECTION Camarillo, California 93012 DANNY VICTOR WILLIAMS, RMO SCOTT MENDLOLA ARNOLD, OFFICER Contractor's License No. 726110, C-16 (Fire Protection Contractor) Respondent.	Case No. N-2008-486 OAH No. 2014020963

PROPOSED DECISION

This matter was heard before Danette C. Brown, Administrative Law Judge, Office of Administrative Hearings, State of California, on December 8, 2014, in Sacramento, California.

Leslie A. Burgermyer, Deputy Attorney General, represented complainant Wood Robinson, Enforcement Supervisor I, Contractors' State License Board (board), Department of Consumer Affairs (department), State of California.

American Fire Services, Inc., doing business as (dba) American Fire Protection (respondent American Fire), was present through its responsible managing officer, Danny Victor Williams (respondent Williams). Respondents American Fire and Williams were represented by Roger D. Wilson, Attorney at Law. Scott Mendlola Arnold (respondent Arnold) was not present and no one appeared on his behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on December 8, 2014.

FACTUAL FINDINGS

1. On or about August 12, 1996, the Registrar of Contractors (registrar) issued Contractor's License No. 726110, classification C-16 (Fire Protection Contractor) to respondent American Fire, with respondent Williams as the responsible managing officer (RMO). Pamela Diane Williams became an officer on August 24, 2000, and was removed on November 29, 2004. Respondent Arnold became an officer on November 29, 2004, and remains an officer to date.

2. Respondent Williams, on behalf of himself and respondent American Fire, timely filed a Notice of Defense in this matter pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et seq. Respondent Arnold did not file a Notice of Defense pursuant to Government Code section 11506, thus waiving his right to a hearing. The matter proceeded as a default pursuant to Government Code section 11520 as to respondent Arnold.

License History and Current License Status

3. The licensing history and current licensing status of respondent American Fire is as follows:

Date	Status
August 12, 1996	License Issued
January 8, 2003	Suspended (No worker's compensation)
January 16, 2003	Reinstated
August 31, 2004	Expired
September 13, 2004	Renewed
August 31, 2006	Expired
October 10, 2006	Renewed
August 31, 2008	Expired
November 17, 2008	Renewed
July 20, 2009	Suspended per Superior Court Order (Board Case No. N 2008-486)

April 15, 2010	Suspended (No Contractor's Bond)
August 31, 2010	Expired under suspensions
October 14, 2010	Renewed (License Inactive), Suspension on contractor's bond lifted
January 21, 2014	Suspension (on Superior Court Order) still in effect

Respondent's Convictions

4. On February 23, 2011, in the Superior Court of California, County of Tulare, Case No. VCF 222476, respondent Williams was convicted by a jury of 26 counts of violating Penal Code section 386 (willful or malicious construction of fire protection system), one count of 484b (diversion of construction funds), and one count of 487, subdivision (a) (grand theft), all felonies. Respondent Williams was also convicted of 25 counts of violating Health and Safety Code section 13195 (violation of regulations and building standards for automatic fire extinguishing systems), and one count of violating section 13160 (violation of regulations and building standards for portable fire extinguishers), misdemeanors.

On July 16, 2009, while the criminal matter against respondent Williams was pending, the court ordered suspension of respondent American Fire's contractor's license. The board suspended the license effective July 20, 2009. Respondent Williams was sentenced to a five year state prison term on May 20, 2011.

5. On appeal, respondent William's Penal Code section 386 convictions were reversed, and the remaining convictions were affirmed. (*People v. Danny Victor Williams* (2013) 278 Cal.App.4th 1038, 1047.)

6. The facts and circumstances of respondent William's conviction are that, in June 2008, respondent American Fire entered into a contract with Svenhard's Swedish Bakery (SSB), through its RMO respondent Williams, to repair SSB's automatic sprinkler system. SSB's facility in Exeter, California was then a vacant factory, which SSB planned to convert into a commercial bakery and production plant. SSB's facility had an automatic fire sprinkler system consisting of approximately 4,000 to 5,000 sprinkler heads throughout six zones, designated by system "risers," or main pipes rising out of the floor and supplying water to sprinkler heads located within a certain area. The system was decades old and had not been inspected or serviced in many years. The SSB contract provided that respondent American Fire would repair Risers 1 to 6. SSB also purchased new fire extinguishers from respondent American Fire, and agreed that respondent American Fire would replace an "outside stem and yoke," known as an OS&Y valve, buried outside of the building. The total contract price was over $98,000.

Work commenced in July or August 2008. In September 2008, after respondent informed SSB that work was complete and he was paid by SSB, the local fire inspector found numerous deficiencies and fire code violations still present throughout the sprinkler system. SSB paid to have another contractor replace the OS&Y valve that respondent American Fire installed.[1] A criminal investigation began, and respondent Williams was subsequently charged in connection with the work at SSB, and with work at 33 separate business establishments. Respondent American Fire had been hired by small businesses to inspect their kitchen "hood" systems. Every hood system had been inspected and serviced by employee Ken Speck. In most instances, the customers' systems were not fully compliant with the fire code and/or needed to be upgraded to meet minimum regulatory standards. Respondent William's misdemeanor convictions are based on work conducted by his employee Mr. Speck at the various business establishments.

Fraud

7. Respondent Williams knew that the agreed upon repairs at SSB were not finished, yet represented to SSB that they were. The local fire inspector determined that some of the work was left unfinished, or had never been started. Nevertheless, respondent was subsequently paid under the contract. His conduct constituted fraud.

Diversion of Funds

8. Respondent Williams diverted funds by failing to use SSB's deposit and progress payments to purchase the materials necessary to complete the project. He retained a portion of the payments he had no right to keep. If all funds received are not earned or used for bona fide project costs, there is evidence of an unlawful diversion. (*People v. Danny Victor Williams, supra,* 278 Cal.App.4th 1038, 1065; see also *People v. Butcher* (1986) 185 Cal.App.3d 929, 938.)

Factors in Aggravation, Mitigation and Rehabilitation

9. Respondent American Fire has a history of prior suspensions: failure to maintain worker's compensation insurance in 2003; the Superior Court's suspension order in 2009 based on respondent's conduct which led to his criminal convictions; and failure to obtain a contractor's bond in 2010. The suspension due to the court's order in 2009 is still in effect.

10. Respondent Williams was released from state prison on August 22, 2013, by order of the court. At a resentencing hearing on December 19, 2013, the court struck the sentence imposed on May 11, 2011, and granted respondent Williams formal probation

---

[1] It was later determined that respondent American Fire installed the correct OS&Y valve, however, SSB had already replaced it due to erroneous information from the city.

dating back to May 20, 2011. The court deemed respondent William's probation successfully completed and terminated.

11. At a restitution hearing on March 27, 2014, respondent Williams was ordered by the court to pay restitution to the victim SSB in the amount of $42,097.79, with interest to accrue at the rate of ten percent per annum effective March 27, 2014. Respondent is not able to pay the restitution amount at this time. However, he intends to pay it when he is able. He asserted that the restitution owed to SSB is "a priority" and that they "will be taken care of."

12. Respondent Williams testified that he was a model inmate while in prison. He took college courses, but did not provide further details on the classes he took, or proof of completion. He asserted that the classes taught him to be a better person, and contractor. Respondent also worked as a clerk for one of the prison sergeants.

13. Respondent Williams has gained little insight from his wrongdoing which led to his convictions, particularly his diversion and grand theft felony convictions. He attributed his convictions to a "breakdown of communication" and lack of proper compliance with the City of Tulare. He admitted that it would have been a better business practice if he had called the fire department and told them that he was performing repairs at SSB, because "they could have told me if I needed a permit [for the OS&Y valve] or not." Respondent Williams asserted that he would have trained his employees better, and have better documentation on the work that was performed. Respondent Williams characterized his conduct as naïve, and that he should have taken more of a leadership role in the project. He learned that he needs to follow up on his employees' work by checking it, and ensuring that the work is completed according to the contract requirements and the law. Respondent Williams knows that he is responsible for an employee's work even if he is not at the job site to supervise and inspect the work. Respondent William's testimony was candid.

14. Respondent Williams currently works as an employee at his son's business called Alliance Fire Protection, a fire service company. Respondent is a shareholder in the company. Respondent Williams works in the office doing sales and consultations. The company does not perform installation of fire extinguishers and hoods; it only services them. Respondent began working at the company in September 2013. He works 30 to 40 hours per week, but does not get paid by his son because the company does not earn enough money. Respondent Williams has no other employment or source of income. Respondent lives with his children, who all help in paying the mortgage. Respondent hopes to reinstate his contractor's license so that he can "pay everyone back."

15. Respondent Williams submitted six character references which were received in evidence and considered to the extent permitted by Government Code section 11513, subdivision (d).[2]

---

[2] Government Code section 11513, subdivision (d), provides, in pertinent part, that "[h]earsay evidence may be used for the purpose of supplementing or explaining other

Charles F. Parry, a Senior Portfolio Manager at Merrill Lynch, in his unsigned letter dated December 6, 2014, wrote that he became close friends with respondent Williams approximately seven years ago, when they attended the same church. Mr. Parry regularly visited respondent William's home as a lay minister. Mr. Parry observed the love and respect between respondent Williams and his children. During Mr. Parry's regular visits, they would discuss principles of hard work, moral behavior, and God-inspired doctrines of love to one another. Mr. Parry was shocked to learn of respondent William's conviction, and he is convinced that respondent Williams was wrongfully accused and punished. Mr. Parry admires respondent William's talents, intellect and code of ethics.

Ben Pribyl, respondent William's brother-in-law and owner of American Fire Protection in Phoenix, wrote in his unsigned, undated letter that he has known respondent Williams for 19 years. He attested that respondent Williams is an honest person and has seen that demonstrated countless times. Mr. Pribyl had the opportunity to work with respondent Williams on several occasions and never saw respondent Williams cut corners or take shortcuts. Mr. Pribyl has knowledge of respondent William's convictions and believes respondent Williams was exonerated from all but two criminal counts. He believed that respondent Williams suffered the consequences of a rogue employee. Mr. Pribyl asserted that respondent Williams would never intentionally damage a business or its fire suppression system. Nor would respondent Williams divert funds to hurt a client. Mr. Pribyl believes that respondent Williams has been branded a felon for not being able to fix the mistakes he was accused of making.

Pamela Rodriguez, respondent William's ex-wife, wrote in her signed and dated letter of December 5, 2014, that she has known respondent Williams for 28 years, and was married to him for 18 years. She and respondent Williams have four children together, ranging in age from 18 to 24. She and respondent Williams amicably divorced in 2006. Ms. Rodriguez worked primarily as a stay-at-home mom, and began working at respondent American Fire from 2006 to 2010 as the bookkeeper and secretary. She processed the daily invoices, prepared deposits, and entered data into QuickBooks. At no time did Ms. Rodriguez see a customer financially harmed by respondent Williams. She has always believed in respondent William's innocence and feels that he has gone through enough hardship. She hopes that respondent Williams will be able to rebuild his business and provide for his children by getting his contractor's license back.

Kim B. Bergeson, in her signed and dated letter of December 5, 2014, wrote that she met respondent Williams in 1984. They had a common friend at the time, and also attended the same church. Ms. Bergeson observed respondent Williams build his fire protection business from scratch, and became his client. Respondent Williams serviced some of Ms. Bergeson's properties which required inspections and service over the years. Respondent William's company also serviced the fire extinguishers and other equipment at the Ventura County Sheriff's Department, where Ms. Bergeson is currently employed. Ms. Bergeson

---

evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions."

was shocked to learn about respondent William's conviction, and believes respondent Williams was wrongly imprisoned. She further believed, albeit erroneously, that respondent William's convictions were overturned, and he was released from prison. She described respondent Williams as an ethical, competent and hard-working contractor.

Bob Auletta, owner of the Piano Outlet in Oxnard, California, wrote in his unsigned and undated letter, that he has known respondent Williams for five years. Respondent Williams serviced his fire extinguishers, and subsequently bought a piano from Mr. Auletta. Mr. Auletta stated that he was familiar with the criminal charges against respondent Williams. Mr. Auletta also met respondent William's son, who "worked hard to turn the business around, under the guidance of his father." Mr. Auletta believed respondent Williams is working toward a more truthful and productive life.

Ginger Pearson wrote in her signed and dated letter of November 6, 2014, that she has known respondent Williams for over eight years, and is familiar with respondent's company, having assisted him in marketing efforts for his business. She described respondent Williams as a highly effective leader and small business owner, a devoted father and spiritual man dedicated to the church, and a good friend. Ms. Pearson stated that "the false charges, wrongful convictions, and prison time should not have been endured, and the cost to Danny's business, and family, has been more than horrendous." Ms. Pearson believes respondent Williams to be a responsible citizen and outstanding businessman.

While the letter writers have known respondent Williams for many years, and wrote commendably on respondent William's behalf, none provided any meaningful insight into respondent's convictions, or what he has done by way of rehabilitation. (See, *Seide v. Committee of Bar Examiners of the State Bar of California* (1989) 49 Cal.3d 933, 940 ["If the character witnesses were not aware of the extent and seriousness of the petitioner's criminal activities, their evaluations of his character carry less weight."].) The letters are of limited value in assessing rehabilitation.

16. The evidence did not establish that respondent Arnold participated in, or had knowledge of the acts committed by respondent Williams, as set forth in Findings 4 to 8.

Costs

17. Complainant has requested reimbursement for costs incurred by the board in connection with the prosecution of this matter, in the total amount of $20,755.50. The costs were certified in the manner provided by Business and Professions Code section 125.3, subdivision (c). The requested costs include 0.5 hours of paralegal time, in the amount of $60, and 123.75 hours of attorney time, in the amount of $20,695.50. The time spent appears to be reasonable, and the activities claimed were necessary to the development and presentation of the case. Although respondent is employed in his son's business, he is not paid for his work, and thus has no income at this time.

LEGAL CONCLUSIONS

1. Business and Professions Code[3] section 118, subdivision (b) provides that 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.

2. 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.

3. Section 7076.5 provides in pertinent part, that 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 the Contractor's State License Law.

4. Section 7095 provides that the [registrar's] 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 license shall be accepted by the registrar.

5. Section 7096 provides that the term "licensee" shall include an individual, partnership, corporation, limited liability company, joint venture, or any combination or organization licensed under the Contractor's State License Law, and shall also include any named responsible managing officer, responsible managing manager, responsible managing member or personnel of that licentiate whose appearance has qualified the licentiate under the provisions of Section 7068.

---

[3] All citations are to the California Business and Professions Code unless otherwise noted.

6. Section 7097 provides that notwithstanding the provisions of Sections 7121 and 7122, when any license 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 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.

7. Section 7098 provides that notwithstanding the provisions of Sections 7121 and 7122, when any license has been revoked under the provisions of this chapter, 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.

8. Section 7106.5 provides that the expiration, cancellation, forfeiture, or suspension of a license by operation of law or by order or decision of the registrar or a court of law, or the voluntary surrender of 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.

9. Section 7108 provides that the diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, or failure substantially to account for the application or use of such funds or property on the construction project or operation for which such funds or property were received constitutes a cause for disciplinary action.

10. Section 7116 provides that the doing of any willful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured constitutes a cause for disciplinary action.

11. Section 7121 provides that a person whose license is under suspension, or who has failed to renew his 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.

12. Section 7121.5 provides that a person who was the qualifying individual on a revoked license, or of a license under suspension, or of a license that was not renewed while it was under suspension, shall be prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of a licensee, whether or not the individual had knowledge of or participated in the prohibited acts or omissions for which the license was

revoked, or suspended, and the employment, election, or association of that person by a licensee shall constitute grounds for disciplinary action.

13. Section 7122 provides that the performance by an individual, partnership, corporation, limited liability company, firm, or association of an act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against a licensee other than the individual qualifying on behalf of the individual or entity, if the licensee was a partner, officer, director, manager, or associate of that individual, partnership, corporation, limited liability company, firm, or association at the time the act or omission occurred, and had knowledge of or participated in the prohibited act or omission.

14. Section 7122.5 provides that the performance by an individual, partnership, corporation, limited liability company, firm, or association of an act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against a licensee who at the time that the act or omission occurred was the qualifying individual of that individual, partnership, corporation, limited liability company, firm, or association, whether or not he had knowledge of or participated in the prohibited act or omission.

15. Section 7123 provides that 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.

16. Section 7124 provides that 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.

17. Section 125.3 provides, in pertinent part, that the registrar may request the administrative law judge to 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.

18. California Code of Regulations, title 16, section 832.16 (Class C-16, Fire Protection Contractor) states:

> A fire protection contractor lays out, fabricates and installs all types of fire protection systems; including all the equipment associated with these systems, excluding electrical alarm systems.

Substantial Relationship

19. Pursuant to California Code of Regulations, title 16, section 868, a crime or act, as defined in section 480 of the Business and Professions Code, shall be considered to be substantially related to the qualifications, functions, or duties of a licensee "if it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, and welfare." Those crimes or acts include, but are not be limited to: "...crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public." (Cal. Code Regs., tit. 16, § 868, subd. (e).)

20. Respondent William's felony convictions for diversion of construction funds and grand theft, as set forth in Finding 4, involved a substantial disregard for the health, safety, or welfare of the public, and are therefore substantially related to the qualifications, functions, or duties of a licensee. His diversion of construction funds shows that he has not performed the functions authorized by the license in a manner consistent with the public health, safety, and welfare.

21. Respondent William's misdemeanor convictions for violations of regulations and building standards for automatic fire extinguishing systems and portable fire extinguishers, as set forth in Finding 4, involved a substantial disregard for the health, safety, or welfare of the public, and are therefore substantially related to the qualifications, functions, or duties of a licensee. His violation of regulations and building standards shows that he has not performed the functions authorized by the license in a manner consistent with the public health, safety, and welfare.

Causes for Discipline

22. Cause exists for discipline of respondent American Fire's contractor license, License No. 726110, pursuant to sections 7090, 7123, 7124, and California Code of Regulations, title 16, section 868, subdivision (e), in that RMO respondent Williams was convicted of crimes that are substantially related to the qualifications, functions, or duties of a licensee, by reason of Finding 4 and Legal Conclusions 20 and 21.

23. Cause exists for discipline of respondent American Fire's contractor license, License No. 726110, pursuant to section 7116, in that RMO respondent Williams committed a willful or fraudulent act, in consequence of which others were substantially injured, by reason of Findings 6 and 7.

24. Cause exists for discipline of respondent American Fire's contractor license, License No. 726110, pursuant to section 7108, in that RMO respondent Williams diverted construction funds on the SSB project, by reason of Findings 6 and 8.

Prohibition from Serving as Controlling Officer

25. Cause exists pursuant to section 7121 to prohibit respondent Williams[4] from serving as an officer, director, associate, partner, manager, or qualifying individual, or member of the personnel of record of a licensee, and the employment, election, or association of respondent Williams in any capacity by a licensee in any capacity other than as a non-supervising bona fide employee shall be subject to disciplinary action.

26. Cause exists pursuant to section 7121.5 to prohibit respondent Williams, as the qualifying individual on respondent American Fire's license, from serving as officer, director, associate, partner, or qualifying individual of any licensee during the time that discipline is imposed on respondent American Fire's license, whether or not respondent Williams had knowledge of or participated in the acts or omissions constituting grounds for discipline, and any licensee which employs, elects, or associates respondent Williams shall be subject to disciplinary action, by reason of Legal Conclusions 22 to 24.

Rehabilitation

27. The Board's disciplinary guidelines, as referenced in California Code of Regulations, title 16, section 871, state that the following factors should be considered in determining whether revocation, suspension or probation is to be imposed in a given case:

A. Nature and severity of the act(s), offenses, or crime(s) under consideration.
B. Actual or potential harm to the public.
C. Performed work that was potentially hazardous to the health, safety, or general welfare of the public.
D. Prior disciplinary record.
E. Number and/or variety of current violations.
F. Mitigation evidence.
G. Rehabilitation evidence.
H. In case of a criminal conviction, compliance with the terms of sentence and/or court-ordered probation.

28. In this case, the offenses were serious, in that the evidence established that respondent Williams committed two felony theft crimes – diversion and grand theft - and numerous misdemeanors involving the servicing of fire extinguishing systems and portable fire extinguishers. Respondent was actively engaged in the SSB project, represented that the work was completed and received payment from SSB. Respondent knew that employee Mr. Speck performed the work related to the fire extinguishing systems and fire extinguishers at various business establishments, and should have ensured compliance with regulatory

---

[4] The accusation does not include a prayer to prohibit respondent Arnold from serving as an officer, director, associate, partner, manager, or qualifying individual, or member of the personnel of record of a licensee, pursuant to section 7121.

standards. Respondent William's acts subjected his clients to risk of serious loss and potential risk of fire to their properties.

29. Actual harm occurred to SSB when it incurred monetary losses by having to hire another contractor to repair or complete the work performed by respondent American Fire and respondent Williams.

30. By failing to properly repair the fire sprinklers at SSB, and to properly maintain or service the fire extinguishing systems and fire extinguishers at various business establishments, respondent American Fire and respondent Williams performed work that was potentially hazardous to the health, safety, or general welfare of the public.

31. Respondent American Fire and respondent Williams have a prior disciplinary record with the board, as set forth in Findings 3 and 9.

32. Respondent Williams has taken some positive steps toward rehabilitation since his criminal convictions. However, he expressed little insight into his conduct which led to his convictions. He asserted that he was convicted because of his poor communication and business practices, and the acts of his employee Mr. Speck, yet he sustained convictions involving fault and intent. Respondent Williams has not yet shown that he has accepted responsibility for his actions. He characterized his conduct as naïve, even though he has been a licensed contractor since 1996. He wishes to maintain his license so that he can work and pay his restitution to SSB. He is not significantly involved in community activities. He is not gainfully employed. It has only been approximately one and a half years since respondent Williams was released from prison.

Respondent Williams did not demonstrate that he is fully rehabilitated from his convictions. True rehabilitation begins when one is off probation. (*In re Gossage*, 23 Cal.4th 1080.) Respondent's formal probation ended on December 19, 2013, just one year ago. More time is needed for respondent to show that he has truly rehabilitated from his crimes.

33. When all the facts and circumstances are weighed and balanced, it is contrary to the public interest for respondent American Fire to remain licensed as a contractor at this time.

Restitution

34. As set forth in Finding 11, respondent was ordered by the court to pay restitution to the victim SSB in the amount of $42,097.79 plus interest. The registrar, pursuant to section 7095, may impose compliance with the court's order, and may further provide that until such condition is met, no application for restoration of the suspended or revoked license shall be accepted by the registrar.

Costs

35. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

36. As set forth in Finding 17, complainant seeks $20,755.50 in costs. When all the *Zuckerman* factors are considered, this cost amount is reasonable. Given respondent William's financial inability to pay these costs at this time, respondent Williams should not be required to pay these costs unless and until respondent American Fire's license is reinstated.

ORDER

1. Contractor's License No. 726110, issued to respondent American Fire Services, Inc., doing business as American Fire Protection, with respondent Danny Victor Williams as the responsible managing officer, and respondent Scott Mendlola Arnold as an officer, is hereby REVOKED.

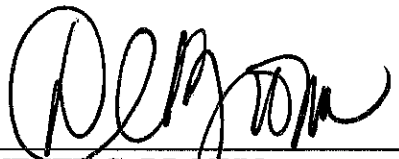
2. Respondent Danny Victor Williams is prohibited from serving as an officer, director, associate, partner, or qualifying individual of any licensee during the period that discipline is imposed on Contractor's License No. 726110, issued to respondent American Fire Services, Inc., doing business as American Fire Protection, with respondent Danny Victor Williams as the responsible managing officer, and respondent Scott Mendlola Arnold as an officer.

3. Any other license for which respondent Danny Victor Williams is furnishing the qualifying experience or appearance is hereby REVOKED.

4. American Fire Services, Inc., doing business as American Fire Protection, with respondent Danny Victor Williams as the responsible managing officer, and respondent Scott Mendlola Arnold as an officer, shall pay to the Registrar of Contractors the restitution owed to the victim Svenhard's Swedish Bakery in the amount of $42,097.79, with interest to accrue at the rate of ten percent per annum effective March 27, 2014, as a condition of restoration of Contractor's License No. 726110.

5. American Fire Services, Inc., doing business as American Fire Protection, with respondent Danny Victor Williams as the responsible managing officer, and respondent Scott Mendlola Arnold as an officer, shall pay to the Registrar of Contractors the costs associated with prosecution pursuant to Business and Professions Code section 125.3 in the amount of in the amount of $20,755.50, if and when the license is reinstated.

DATED: February 4, 2015



DANETTE C. BROWN
Administrative Law Judge
Office of Administrative Hearings