

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

In the Matter of the Accusation Against:

**AMERICAN ASPHALT & SEAL COATING  
PROFESSIONALS**

494 Marsan Court

Marina, CA 93933

MARSHALL DOUGLAS LARKIN, Sole Owner

Contractor's License No. **953939**, C32

Respondent

Case No. N2012-261

DEFAULT DECISION  
AND ORDER

[Gov. Code, § 11520]

Respondent, **AMERICAN ASPHALT & SEAL COATING PROFESSIONALS**, having been served with Accusation, Case No. N2012-261, Statement to Respondent and a Notice of Defense form as provided by sections 11503 and 11505 of the Government Code; having failed to file a Notice of Defense, the Agency has determined that the Respondent is in default. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable cost for the Investigation and Enforcement in this matter is \$2,823.62 as of March 22, 2013.

This agency will take action on the Accusation and documents on file herein without a hearing as provided by Sections 11505(a) and 11520 of the Government Code and makes the following findings of fact:

FINDINGS OF FACT

1. On or about February 22, 2013, Accusation, Case No. N2012-261, was filed against **AMERICAN ASPHALT & SEAL COATING PROFESSIONALS** before the Contractors State License Board (Board). A true and correct copy of the Accusation, Case No. N2012-261, is attached as Exhibit "1" to the separate accompanying "Default Decision Evidence Packet" and incorporated by reference as if fully set forth herein.

2. On or about October 27, 2010, the Board issued Contractor's License No. **953939** to **AMERICAN ASPHALT & SEAL COATING PROFESSIONALS**. Said license was in full force and effect at all times relevant to the charges and allegations contained in Accusation, Case No. N2012-261. Contractor's License No. **953939** expired on October 31, 2012. This lapse in licensure however, pursuant to Business and Professions Code section 118(b), does not deprive the Board of its authority to institute or continue this disciplinary proceeding. A true and correct copy of the Certificate of Licensure is attached as Exhibit "2" to the separate accompanying "Default Decision Evidence Packet" and incorporated by reference as if fully set forth herein.

3. On or about February 25, 2013, Respondent was served by certified and first class mail with a true and correct copy of Accusation, Case No. N2012-261, together with copies of all statutorily required documents, at his address of record on file with the Board, which was: 494 Marsan Court, Marina, CA 93933. A true and correct copy of the Statement to Respondent and Declaration of Service are attached as Exhibit "3" to the separate accompanying "Default Decision Evidence Packet" and incorporated by reference as if fully set forth herein. Service of Accusation, Case No. N2012-261, was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

4. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

5. Respondent failed to file a Notice of Defense within 15 days after service upon him of a true and correct copy of Accusation, Case No. N2012-261, and has therefore waived his right to a hearing on the merits of the charges and allegations contained therein.

6. Government Code section 11520, subdivision (a), states, in pertinent part:

"If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

#### DETERMINATION OF ISSUES

7. Pursuant to its authority under California Government Code section 11520, and based on the relevant evidence before it as contained in the Default Decision Evidence Packet, the Board hereby finds, by clear and convincing evidence, that the charges and allegations contained in Accusation, Case No. N2012-261, Business and Professions Code sections 7107, 7109(a), 7113, 7117.5(b), 7125.4 and the Findings of Fact contained in paragraphs 1 - 6 above, and each of them separately and severally, are true and correct.

ORDER

IT IS SO ORDERED THAT:

Contractor's License Number **953939** issued to **AMERICAN ASPHALT & SEAL COATING PROFESSIONALS** is revoked.

IT IS FURTHER ORDERED that pursuant to Section 7102 of the Business and Professions Code and section 870 of the Code of Regulations, title 16, **AMERICAN ASPHALT & SEAL COATING PROFESSIONALS**, Contractor's License No. **953939**, shall not apply for reissuance or reinstatement of said license for one year(s) from the effective date of this Decision.

IT IS FURTHER ORDERED that Respondent shall pay the investigative and restitution costs in the amount of \$2,823.62 prior to issuance of a new or reinstated license.

IT IS THE responsibility of the Respondents named in this Decision, to read and follow the terms and conditions of the Order. Proof of payments of restitution, and payments for the Cost of Investigation and Enforcement if ordered, are to be sent to CSLB, Sacramento Case Management, Post Office Box 26888, Sacramento, CA 95826.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 21, 2013.

IT IS SO ORDERED April 16, 2013.

  
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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 Petition must be received prior to the effective date of the Decision. However, please be aware that the Contractors State License Board needs approximately five (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.