

AGENDA

BUILDING INSPECTOR LICENSING BOARD

Room 475

January 14, 2014 11:00 AM

Heber M Wells Bldg

160 E 300 S Salt Lake City Utah

This agenda is subject to change up to 24 hours prior to the meeting

1. Swear in new members
2. Elect a chairman and vice-chairman
3. Approve minutes from the January 18 and September 18, 2012 meetings
4. Interview with David Darger for application for licensure

Please call Sharon at 530-6163 or email ssmalley@utah.gov, or dansjones@utah.gov if you do not plan on attending this meeting.

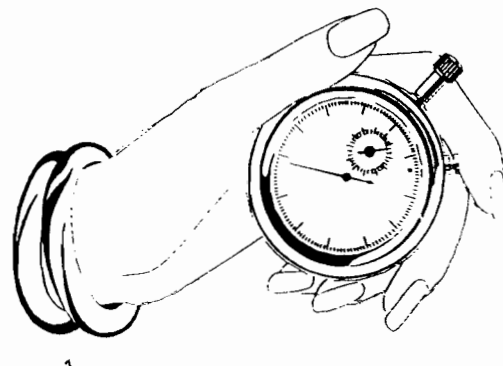


In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Dave Taylor, ADA Coordinator, at least three working days prior to the meeting.

Division of Occupational and Professional Licensing, 160 East 300 South, Salt Lake City UT 84111, Phone 530-6628 or toll-free in Utah only 866-275-3675

Agenda Item

#3



MINUTES

BUILDING INSPECTOR LICENSING BOARD
Heber M. Wells Building 160 E 300 S
Room 464 11:00 AM
January 18, 2012

MINUTES

STAFF:

Dan S Jones, Bureau Manager
Sharon Smalley, Secretary

BOARD MEMBERS:

Roger Evans Ed Domian
Carol Peterson (excused)
Donna Jackson

VISITORS:

Dan Jones conducted the opening of the meeting because there is not a chair nor vice chair for the board at this time.

SWEAR IN NEW MEMBER

Dan Jones swore in Ed Domian, the new member of this board.

ELECT A CHAIRMAN AND VICE CHAIRMAN

A motion was made by Roger Evans to nominate Ed Domian as chairperson. Donna Jackson seconded the motion and the motion passed unanimously.

At this time Mr. Jones turned the running of the meeting for the remaining agenda items over to Mr. Domian.

A motion was made by Roger Evans to nominate Donna Jackson as vice chair for this board. The motion was seconded by Ed Domian and passed unanimously.

MINUTES

Roger Evans made a motion to approve the minutes from the April 20, 2010 meeting as written. The motion was seconded by Donna Jackson and passed unanimously.

INTERVIEW WITH CAREY S. MAEDGEN FOR APPLICATION FOR LICENSE RENEWAL

Carey Maedgen met with the board in connection with his application for renewal of his license as a combination inspector.

Following the interview with Mr. Maedgen, a motion was made by Donna Jackson to reactivate the

license and place his license on probation to run parallel with the probation imposed by the court. The motion was seconded by Ed Domian and passed with a vote of two in favor and Roger Evans voting in opposition.

Roger Evans made a motion to conditionally renew Mr. Maedgen combination inspector's license for a period of 60 days while the stipulation is being drawn up. The motion was seconded by Donna Jackson and passed unanimously.

The meeting adjourned at 11:25.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

BUILDING INSPECTOR LICENSING BOARD

Heber M. Wells Building 160 E 300 S

Room 464 11:00 AM

September 18, 2012

MINUTES

STAFF:

Dan S Jones, Bureau Manager
Sharon Smalley, Board Secretary
Tracy Taylor, Board Secretary

BOARD MEMBERS:

Terry Palmer	Ed Domian
Carol Peterson (excused)	Jesse Bullock (excused)
Donna Jackson (excused)	

VISITORS:

Wesley Pugmire

SWEAR IN NEW MEMBER

Dan Jones swore in Terry Palmer, a new member of this board.

MINUTES

Approval of the minutes from the January 18, 2012 meeting was deferred as there was not a quorum present.

INTERVIEW WITH WESLEY PUGMIRE FOR APPLICATION FOR LICENSURE

Wesley Pugmire met with the board in connection with his application for licensure as a limited inspector. Mr. Jones explained the procedures that would be followed in connection with Mr. Pugmire's application. Mr. Pugmire agreed to go ahead with the interview and let those present make an informal recommendation to the Division.

Following the interview and discussion by those present, an informal recommendation was made to grant a non disciplinary limited inspector license with restrictions limited to welding certifications and high strength bolting.

The meeting adjourned at 10:37.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

Agenda Item #4

R156-1-302. Consideration of Good Moral Character, Unlawful Conduct, Unprofessional Conduct, or Other Mental or Physical Condition.

Pursuant to the provisions of Subsection 58-1-401(1) and (2), if an applicant or licensee has failed to demonstrate good moral character, has been involved in unlawful conduct, has been involved in unprofessional conduct, or has any other mental or physical condition which conduct or condition, when considered with the duties and responsibilities of the license held or to be held, demonstrates a threat or potential threat to the public health, safety or welfare, the Division may consider various relevant factors in determining what action to take regarding licensure including the following:

- (1) aggravating circumstances, as defined in Subsection R156-1-102(2);
- (2) mitigating circumstances, as defined in Subsection R156-1-102(16);
- (3) the degree of risk to the public health, safety or welfare;
- (4) the degree of risk that a conduct will be repeated;
- (5) the degree of risk that a condition will continue;
- (6) the magnitude of the conduct or condition as it relates to the harm or potential harm;
- (7) the length of time since the last conduct or condition has occurred;
- (8) the current criminal probationary or parole status of the applicant or licensee;
- (9) the current administrative status of the applicant or licensee;
- (10) results of previously submitted applications, for any regulated profession or occupation;
- (11) results from any action, taken by any professional licensing agency, criminal or administrative agency, employer, practice monitoring group, entity or association;
- (12) evidence presented indicating that restricting or monitoring an individual's practice, conditions or conduct can protect the public health, safety or welfare;
- (13) psychological evaluations; or
- (14) any other information the Division or the board reasonably believes may assist in evaluating the degree of threat or potential threat to the public health, safety or welfare.

R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or this rule:

- (2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee.
Aggravating circumstances include:
 - (a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;
 - (b) dishonest or selfish motive;
 - (c) pattern of misconduct;
 - (d) multiple offenses;
 - (e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;
 - (f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;
 - (g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;
 - (h) vulnerability of the victim;
 - (i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;
 - (j) illegal conduct, including the use of controlled substances; and
 - (k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

- (16) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.
- (a) Mitigating circumstances include:
- (i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;
 - (ii) personal, mental or emotional problems provided such problems have not posed a risk to the health, safety or welfare of the public or clients served such as drug or alcohol abuse while engaged in work situations or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;
 - (iii) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;
 - (iv) full and free disclosure to the client or Division prior to the discovery of any misconduct;
 - (v) inexperience in the practice of the occupation and profession provided such inexperience is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;
 - (vi) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and
 - (viii) remorse.
- (b) The following factors may not be considered as mitigating circumstances:
- (i) forced or compelled restitution;
 - (ii) withdrawal of complaint by client or other affected persons;
 - (iii) resignation prior to disciplinary proceedings;
 - (iv) failure of injured client to complain;
 - (v) complainant's recommendation as to sanction; and
 - (vi) in an informal disciplinary proceeding brought pursuant to Subsection 58-1-501(2)(c) or (d) or Subsections R156-1-501(1) through (5):
 - (A) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;
 - (B) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;
 - (C) argument that a respondent was not adequately represented by counsel in a prior proceeding; and
 - (D) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not, in fact, true.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,

Plaintiff,

vs.

DAVID WILLIAM DARGER,

Defendant.

No. CR-2011-0869

STIPULATED GUILTY PLEA

CLIENT'S COPY

The State of Arizona and the Defendant hereby stipulate to the following disposition of this case:

1. The defendant will plead guilty to: **SOLICITATION OF MISUSE OF PUBLIC MONIES, BASED UPON COUNT 4 (Warrant # 6232), AND SOLICITATION OF MISUSE OF PUBLIC MONIES, BASED UPON COUNT 20 (Warrant # 6521), UNDESIGNATED OFFENSES , IN VIOLATION OF A.R.S. §§ 35-301(4), 35-302, 13-1002, 13-701, 13-702, and 13-801.**

SAID OFFENSES, IF DESIGNATED A CLASS 6 FELONY, AND A NON-DANGEROUS OFFENSE, IS PUNISHABLE BY A PRESUMPTIVE TERM OF IMPRISONMENT OF 1 YEAR, WHICH THE COURT MAY INCREASE TO 2 YEARS OR DECREASE TO .33 YEAR, AND A FINE NOT TO EXCEED \$150,000.00 PLUS SURCHARGES AND ASSESSMENTS.

SAID OFFENSES, IF DESIGNATED A CLASS 1 MISDEMEANOR, IS PUNISHABLE BY UP TO SIX (6) MONTHS IN JAIL AND/OR A \$2,500.00 FINE, PLUS SURCHARGES.

If the Defendant is sentenced to prison, either initially at the time of Judgment and Sentencing or later at any Disposition following any probation violation, the Defendant understands that:

- * The Defendant shall serve at least 85% of any prison term imposed.
- * The Defendant shall also be sentenced to community supervision upon his release from prison for a period of time equal to 15% of his prison sentence.
- * The Defendant may be returned to prison if he violates the terms and conditions of community supervision for the remainder of his community supervision sentence.

2. The defendant will receive a sentence of: **PROBATION;** consistent with the following additional terms: **PAY RESTITUTION OF \$5,000.00 TO THE MOHAVE COUNTY ATTORNEY'S OFFICE AND \$2,000.00 TO THE MOHAVE COUNTY SHERIFF'S OFFICE FOR AND AS A COST OF THE INVESTIGATION AND PROSECUTION OF THESE MATTERS (JOINT AND**

SEVERAL LIABILITY – DEFENDANT TO GET CREDIT FOR ANY AMOUNTS PAID BY CO-DEFENDANT); NO FINE; OFFENSES TO BE DESIGNATED CLASS 1 MISDEMEANORS UPON SUCCESSFUL COMPLETION OF PROBATION; AND ALL OTHER TERMS AT THE JUDGE’S DISCRETION.

3. The following charges will be dismissed, or if not yet filed, will not be brought against the defendant: **COUNTS 4 AND 20 TREATED AS ABOVE; COUNTS 2, 6, 8, 10-12, 24, 28-30 AND 31-54 DISMISSED; THE STATE WILL NOT FILE ANY ADDITIONAL MISUSE OF PUBLIC MONIES, CONFLICT OF INTEREST, OR THEFT RELATED CHARGES COVERING DEFENDANT’S ENTIRE TENURE AS COLORADO CITY FIRE DISTRICT’S ELECTED SECRETARY-TREASURER.**
4. The elements of the offense to which the defendant is pleading guilty are as follows: **THE DEFENDANT MUST: AS A PUBLIC OFFICER CHARGED WITH THE RECEIPT, SAFEKEEPING, TRANSFER OR DISBURSEMENT OF PUBLIC MONEY, KNOWINGLY DEPOSIT PUBLIC MONIES IN A BANK NOT ON SPECIAL DEPOSIT WITHOUT AUTHORITY OF LAW.**
5. This plea and disposition, unless rejected or withdrawn, serves to amend the complaint, indictment, or information to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.
6. If the defendant is charged with a felony, he gives up his right to a preliminary hearing or other probable cause determination on the charges to which he pleads. In the event the court rejects the plea or the defendant withdraws the plea, the defendant gives up his right to a preliminary hearing or other probable cause determination on the original charges. The defendant also agrees that entering this plea agreement is not a material change of circumstances or facts which would allow a re-examination of the conditions of release pursuant to Rule 7.4(a) of the Arizona Rules of Criminal Procedure.
7. The defendant shall not have any right to appeal from the judgment or sentence imposed as a result of this stipulated guilty plea.
8. Unless the plea is rejected or withdrawn, the defendant gives up any and all motions, defenses, objections or requests which he has made or raised, or could assert hereafter, and agrees to the court's entry of judgment against him and imposition of a sentence upon him consistent with the stipulation.
9. If after accepting this plea the court concludes that any of its provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea, giving the defendant and state an opportunity to withdraw the plea.
10. When the court accepts this plea agreement, either at the time of entering this plea agreement or later, then the Defendant cannot withdraw from this plea agreement unless the Defendant can show a manifest injustice.

11. Unless expressly stated otherwise, this stipulated plea agreement does not affect any proceedings that are pending or which could be brought by the State or any other jurisdiction to forfeit any interest of the Defendant in any property.
12. I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading guilty, I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination. I will enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation in the event that I violate any written condition of my probation.
13. I also waive any right I may have to a jury determination of aggravating sentencing factors under A.R.S. § 13-701 and agree the court may consider as aggravating factors the reduction of charges, dismissed charges, conduct occurring after the entering of this agreement and all potential enhancement statutes.

I agree the judge may find any mitigating and these aggravating factors based upon any information presented to the court that the judge deems appropriate under Arizona law and sentence me to the full range of sentences specified in Paragraph 1, either at the time of sentencing or after any probation violation, unless otherwise limited by this plea agreement.

3/29/2013
DATE

David Darger
DEFENDANT
DAVID WILLIAM DARGER
DOB: 1/3/1970

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

3/29/13
DATE

Joseph Carver
DEPUTY PUBLIC DEFENDER
JOSEPH CARVER

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

3/21/13
DATE

James M. Schoppmann
DEPUTY COUNTY ATTORNEY
JAMES M. SCHOPPMANN



STIRBA

A PROFESSIONAL LAW CORPORATION

December 6, 2013

Via Email – dansjones@utah.gov

Dan S. Jones, Bureau Manager
Division of Occupational and Professional Licensing
160 East 300 South
P.O. Box 146741
Salt Lake City, UT 84114-6741

Re: David Darger, Building Inspector License

Dear Dan:

I apologize for my delay in getting back to you concerning this matter, I have been extremely busy and forgot that I had agreed to send you a copy of Mr. Darger's sentencing order after his June 7, 2013 sentencing hearing in Arizona. The order is found under Exhibit B of the attached document.

Since Mr. Darger has now been sentenced, I am writing to reschedule the Board's review of Mr. Darger's application for renewal. For the Board's information, I have attached a Consent Agreement and Order of Probation from the Arizona Department of Health Services regarding that agency's recent action with respect to Mr. Darger's EMS license. We would request that the Board consider adopting a similar course of action with respect to the Building Inspector license. Particularly, since the Arizona Court may choose to terminate Mr. Darger's criminal probation early, we would request that the Board provide that any probation placed on Mr. Darger's license will terminate at the same time as his criminal probation. *See* attached, at p. 3, lines 8-10.

Your cooperation thus far has been greatly appreciated and I look forward to hearing from you soon regarding the review date. Please feel free to contact me if you have any questions or concerns.

Sincerely,

STIRBA, P.C.

R. BLAKE HAMILTON

Enclosure

cc: David Darger
Vincen Barlow

1 **WHEREAS**, A.A.C. R9-25-411(A)(11) defines unprofessional conduct for an
2 Emergency Medical Care Technician as an act or omission made by an Emergency Medical
3 Care Technician that is contrary to the recognized standards or ethics of the Emergency Medical
4 Care Technician profession or that may constitute a danger to the health, welfare, or safety of a
5 patient or the public, including being incarcerated or being placed on parole, supervised release,
6 or probation for any criminal conviction; and

7 **WHEREAS**, the Medical Director finds Mr. Darger's notification letter, along with the
8 Judgment and Sentencing Probation documents obtained by the Bureau, are sufficient evidence
9 to warrant discipline; and

10 **WHEREAS**, the Medical Director, pursuant to Arizona Revised Statute ("A.R.S.") § 36-
11 2211(D)(2), believes that the evidence does not warrant suspension or revocation of Mr.
12 Darger's certificate but does warrant disciplinary action; and

13 **WHEREAS**, the Department and Mr. Darger acknowledge that this Consent Agreement
14 formalizes the agreement reached between them;

15 **NOW, THEREFORE**, in consideration of the mutual covenants and agreements
16 contained herein, and in the interest of a prompt, fair, and complete disposition of the matters
17 contained herein and consistent with the public interest and the statutory responsibilities of the
18 Department, the Department and Mr. Darger agree as follows:

19 1. This Consent Agreement and Order of Probation shall comprise the entire
20 agreement between the Department and Mr. Darger relating to his role in providing emergency
21 medical services to the people of the State of Arizona and the Department's role to ensure that
22 the public is protected.

23 2. The Medical Director has elected to offer Mr. Darger probation and Mr. Darger
24 has carefully reviewed this Consent Agreement and Order of Probation and accepts the
25 disciplinary action determination of the Medical Director and waives his right for an informal
26 interview.

27 3. Mr. Darger agrees that he will be subject to the terms and conditions set forth in

1 the Order of Probation that comprises the second part of this document. The Consent
2 Agreement becomes effective when signed by both parties. The Order of Probation will
3 become effective on the date it is signed by the Medical Director. Mr. Darger acknowledges
4 that the Department will mail a copy of this fully executed document to his last known address,
5 and that this will constitute good and sufficient notice of the effective date of the Consent
6 Agreement and Order of Probation. The Order of Probation will run concurrent with the
7 criminal court order of probation and expire June 7, 2016, regardless of the level of certification
8 held by Mr. Darger during that time. The term of probation may be terminated early if Mr.
9 Darger provides the Bureau with a document from the Mohave County Superior Court, signed
10 by a judge, reflecting that the criminal probation was terminated prior to June 7, 2016.

11 4. Mr. Darger acknowledges and agrees that he is subject to the same certification
12 and recertification requirements as any other Emergency Medical Care Technician seeking any
13 level of Emergency Medical Care Technician certification, including fulfilling all continuing
14 education requirements.

15 5. Mr. Darger acknowledges and agrees that because he was convicted of two (2)
16 counts of Solicitation of Misuse of Public Monies, non-dangerous and non-repetitive,
17 undesignated offenses, in violation of Arizona Revised Statute ("A.R.S.") §§ 35-301(4), on
18 June 7, 2013, he is subject to disciplinary action pursuant to A.R.S. § 36-2211(A)(1) and A.A.C.
19 R9-25-411(A)(11).

20 6. Mr. Darger and the Department acknowledge and agree that by entering into this
21 Consent Agreement, Mr. Darger knowingly and voluntarily waives his right to an Informal
22 Interview with the Medical Director and hearing before an Administrative Law Judge on the
23 matters covered in this Consent Agreement.

24 7. Mr. Darger understands that, had an Informal Interview before the Medical
25 Director been conducted to present sworn testimony and/or evidence, any additional evidence
26 discovered through that process, the Medical Director may have reached a conclusion that
27 Probation was not an appropriate resolution of this matter and elected to dismiss or impose a

1 greater degree of discipline.

2 8. Mr. Darger understands that had an Informal Interview been conducted and had it
3 resulted in an unfavorable decision from the Medical Director, he would have had the right to
4 institute a hearing before an Administrative Law Judge to appeal the decision of the Medical
5 Director and subsequent discipline regarding his conduct and its impact on his certification.

6 9. Mr. Darger agrees that by entering into this Consent Agreement, he knowingly
7 and voluntarily waives his right to appeal any of the matters covered in this Consent
8 Agreement.

9 10. If either the Medical Director or Mr. Darger does not sign the Consent
10 Agreement, both the Consent Agreement and the Order of Probation are null and void and are
11 not binding on either Mr. Darger or the Department.

12 11. No variation or modification of this Consent Agreement shall be valid unless in
13 writing and signed by the Department and Mr. Darger, which writing shall make express
14 reference to this Consent Agreement. No waiver, express or implied, of any breach of any
15 covenant, agreement or duty shall be held or construed as a waiver of any other breach of the
16 same or of any other covenant, agreement, or duty. If any provision or portion of this Consent
17 Agreement shall be held invalid or unenforceable to any extent, the remainder of this Consent
18 Agreement and the application of such portion or provision of this Consent Agreement to other
19 circumstances shall be valid and enforceable to the fullest extent permitted by law.


20 12. The Department and Mr. Darger intend this Consent Agreement to be enforced as
21 written. This Consent Agreement shall be governed by and construed in accordance with the
22 laws of the State of Arizona.

23 13. Mr. Darger acknowledges that he has read the Consent Agreement and Order of
24 Probation, understands them, and are acceptable to him.

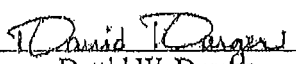
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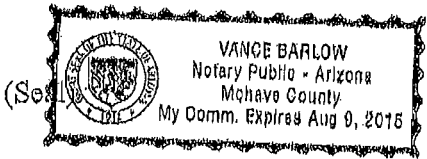
SIGNED this 7th day of August, 2013.


By: 
Bentley Bobrow, M.D.
Medical Director
Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System

IN WITNESS WHEREOF, one of the parties to this Consent Agreement has executed
this Consent Agreement on this 24th day of July, 2013.

By: 
David W. Darger

SUBSCRIBED AND SWORN to before me this 29th day of July, 2013.




Notary Public

1 ORDER OF PROBATION

2 I. FACTUAL BACKGROUND AND LEGAL AUTHORITY FOR ORDER OF
3 PROBATION.

4 David William Darger came to the attention of the Bureau of Emergency Medical
5 Services and Trauma System ("Bureau") on June 25, 2013, when Mr. Darger submitted
6 notification to the Bureau, as prescribed in Arizona Administrative Code ("A.A.C.") R9-25-
7 409(C), that he was convicted of a criminal offense which resulted in a sentence involving
8 probation. A copy of the notification letter is attached as Exhibit A. Court documents obtained
9 by the Bureau provides sufficient evidence to support the conviction of two (2) counts of
10 Solicitation of Misuse of Public Monies, non-dangerous and non-repetitive, undesignated
11 offenses, in violation of Arizona Revised Statute ("A.R.S.") §§ 35-301(4), on June 7, 2013, in
12 the Mohave County Superior Court, following acceptance of a March 29, 2013 plea agreement.
13 The court judgment and court orders included, but was not limited to, supervised criminal
14 probation for a period of three (3) years, commencing June 7, 2013. A copy of the court
15 documents are attached as Exhibit B.

16 Pursuant to Arizona Revised Statutes ("A.R.S.") § 36-2211, the Medical Director of the
17 Bureau, on behalf of the Director of the Department, may place on probation an Emergency
18 Medical Care Technician for the violations established in A.R.S. § 36-2211 which includes, but
19 is not limited to, unprofessional conduct. Section R9-25-411(A)(11) of the Arizona
20 Administrative Code ("A.A.C.") provides that unprofessional conduct includes being
21 incarcerated or being placed on parole, supervised release, or probation for any criminal
22 conviction.

23 A.R.S. § 36-2211(D)(2)(b) provides that the Medical Director may fix such period and
24 terms of the probation best adapted to protect the public health and safety and rehabilitate and
25 educate the Emergency Medical Care Technician. Failure to comply with any term or condition
26 of this Order of Probation is cause for the Department to file a complaint and to hold a formal
27 administrative hearing. At such a hearing, the sole issue for determination will be whether Mr.

1 Darger failed to comply with the terms and conditions of this Order of Probation. If the
2 administrative law judge finds that Mr. Darger violated the terms of this Order of Probation,
3 sufficient grounds will exist for the Department to revoke Mr. Darger's certification as an
4 Emergency Medical Care Technician at any level, including Basic, EMT, Advanced EMT,
5 Intermediate and Paramedic levels.

6 The Order of Probation will run concurrent with the criminal court order of probation
7 and expire June 7, 2016, regardless of the level of Emergency Medical Care Technician
8 certification held by Mr. Darger during that time. The term of probation may be terminated
9 early if Mr. Darger provides the Bureau with a document from the Mohave County Superior
10 Court, signed by a judge, reflecting that the criminal probation was terminated prior to June 7,
11 2016.

12 Mr. Darger will be subject to the following terms and conditions:

13 **II. TERMS AND CONDITIONS OF THE ORDER OF PROBATION.**

14 A. During his probationary period, Mr. Darger shall have his principal place of
15 residence within the State of Arizona.

16 B. During his probationary period, if Mr. Darger is arrested for any reason, he shall
17 notify the Department by notifying the Bureau of that arrest in writing within three (3) working
18 days of the date of the arrest. If that arrest results in a judgment of guilt, Mr. Darger will be in
19 violation of this Order of Probation.

20 C. During his probationary period Mr. Darger shall abide by all statutes and rules of
21 the State of Arizona, and by all Department statutes, rules, and protocols that govern the
22 conduct of an Emergency Medical Care Technician. Failure to do so is a violation of this
23 Order of Probation.

24 D. During his probationary period, Mr. Darger shall comply with the terms of
25 probation imposed by the Mohave County Superior Court. If the Bureau is notified of a
26 probation violation conviction from the Mohave County Superior Court or adult probation
27 department, Mr. Darger will be in violation of this Order of Probation.

1 E. During his probationary period, Mr. Darger shall notify the Department, by
2 notifying the Bureau in writing, of any changes in address or telephone number within ten (10)
3 days of the change. Failure to do so is a violation of this Order of Probation.

4 F. Nothing in this Order of Probation shall prevent Mr. Darger from performing the
5 Emergency Medical Care Technician treatment activities as authorized by law; nor does this
6 Order of Probation restrict him from applying for certification or recertification as an
7 Emergency Medical Care Technician at the Paramedic level, or any other level of Emergency
8 Medical Care Technician as provided by A.A.C. R9-25-401 through 412.

9 G. Nothing in this Order of Probation shall prevent Mr. Darger from applying for
10 admission to classes, or attending any training program, for the purpose of receiving training
11 for certification as an Emergency Medical Care Technician at the Paramedic level, or any other
12 level of Emergency Medical Care Technician.

13 H. The Department, through the Bureau, hereby notifies Mr. Darger that if he fails to
14 comply with or violates any term or condition of this Order of Probation, grounds will exist for
15 the Department to file a complaint and hold a formal hearing concerning revocation,
16 suspension, or other appropriate action against his Emergency Medical Care Technician
17 certificate.

18 I. The Order of Probation will run concurrent with the criminal court order of
19 probation and expire June 7, 2016, regardless of the level of certification held by Mr. Darger
20 during that time. The term of probation may be terminated early if Mr. Darger provides the
21 Bureau with a document from the Mohave County Superior Court, signed by a judge, reflecting
22 that the criminal probation was terminated prior to June 7, 2016.

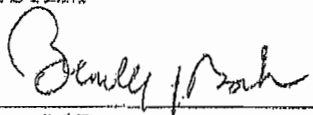
23 J. No variation or modification of this Order of Probation shall be valid unless in
24 writing and signed by the Department. No waiver, expressed or implied, of any breach of any
25 covenant, agreement, or duty shall be held or construed as a waiver of any other provision of
26 this Order. If any provision or portion of this Order of Probation shall be held invalid or
27 unenforceable to any extent, the remainder of this Order of Probation shall be valid and

1 enforceable.

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DATED this 7th day of August, 2013.

ARIZONA DEPARTMENT OF HEALTH SERVICES
BUREAU OF EMERGENCY MEDICAL SERVICES AND
TRAUMA SYSTEM



Bentley Bobrow, M.D.
Medical Director
Bureau of Emergency Medical Services and Trauma System

COPY of the foregoing sent by certified mail this
7th day of August, 2013, to:

David W. Darger
P.O. Box 5
Colorado City, AZ 86021

ORIGINAL of the foregoing maintained this
7th day of August, 2013, by:

Susan Nicolas, Enforcement Manager
Arizona Department of Health Services, BEMSTS
150 N. 18th Avenue, Suite 540
Phoenix, Arizona 85007

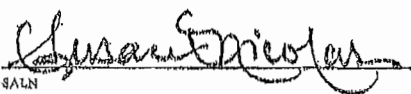

SALN

EXHIBIT - A

David W. Darger
P.O. Box 5
Colorado City, AZ 86021

June 20, 2013

Arizona Department of Health
Susan Nicolas,
Enforcement Manager
150 N. 18th Ave., Suite 340
Phoenix, AZ 85007

**RE: Paramedic certification
Notification of sentencing on plea agreement**

Dear Ms. Nicolas,

As we have previously discussed, I appeared before Superior Court Judge Conn on June 7, 2013 and received a sentence for the plea agreement relating to undesignated offenses charged as solicitation of violation of duties as custodian of public monies. The sentence was monetary fines and a 36 month supervised probation with minimum supervision and eligibility for early termination after 18 months. Any other charges have been dismissed and will not be considered in any further proceedings.

I understand that the Bureau is planning to put my certification on a probationary status. I am requesting to remain as an active Paramedic, and appreciate your understanding and assistance.

Sincerely,

David Darger

David Darger

Telephone: 928-415-1047

RECEIVED

JUN 26 2013

BEMSTS CERTIFICATION

RECEIVED

JUN 26 2013

BEMS ENFORCEMENT

EXHIBIT - B

UR

FILED
TIME 3:30 PM
JUN 07 2013
VIRLYNN YINELL
CLERK SUPERIOR COURT
BY: UR DEPUTY

IN THE SUPERIOR COURT
MOHAVE COUNTY, STATE OF ARIZONA

Judge: Honorable Steven F. Conn
Division: 3 Courtroom: A
Court Reporter: Jim Glover

Virlynn Tinnell, Clerk of Superior Court
By: Lacie Robbins, Deputy Clerk
Hearing Date: June 7, 2013

STATE OF ARIZONA,
vs.
DAVID WILLIAM DARGER,
Plaintiff,
Defendant,

CASE NO: CR-2011-00869
JUDGMENT & SENTENCING PROBATION
START: 1:36 P.M.

DATE OF BIRTH: January 3, 1970

APPEARANCES: The State is represented by James Schoppmann, Deputy County Attorney; the Defendant is present with counsel, Art Flggs.

The Defendant is advised of these charges, the determination of guilt and is given the opportunity to speak.

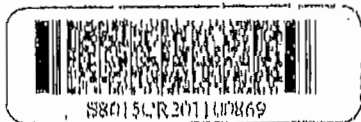
Pursuant to A.R.S. §13-607, the Court finds as follows:

WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived his right to a trial; his rights to confront and cross examine witnesses, his right to testify or remain silent and his right to present evidence and call his own witnesses after having been advised of these rights. The determination of guilt was based upon a plea of guilty.

Having found no legal cause to delay rendition of judgment and pronouncement of sentence, the Court enters the following Judgment and Sentence:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of Count 4: Solicitation of Misuse of Public Monies, a non-dangerous, non-repetitive, Undesignated Offense, in violation of A.R.S. §§ 35-301(4), 35-302, 13-1002, 13-701, 13-702 and 13-801, committed on December 29, 2005.

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of Count 20: Solicitation of Misuse of Public Monies, a non-dangerous, non-repetitive, Undesignated Offense, in violation of A.R.S. §§ 35-301(4), 35-302, 13-1002, 13-701, 13-702 and 13-801, committed on April 3, 2009.



Upon consideration of the offense, and the facts, law and circumstances involved in this case, the Court finds that the Defendant is eligible for probation. The specific reasons for the granting of probation are stated by the Court on the record.

As punishment for this/these crime(s):

IT IS ORDERED suspending imposition of sentence and placing the Defendant on probation for a period of 3 years commencing June 7, 2013 under the supervision of the Adult Probation Department of this Court, in accordance with the formal Judgment and Order suspending sentence and imposing terms of probation signed by the Court.

As a condition of probation,

IT IS ORDERED that the Defendant pay a monthly probation services fee to the Clerk of the Superior Court of Mohave County at the rate of \$10.00 per month, commencing on August 1, 2013 and due on that day of each month thereafter during the term of probation.

RESTITUTION

IT IS ORDERED that the Defendant shall pay Restitution in the amount of \$7,000.00 and will receive credit for payments made by the Co-Defendant.

REIMBURSEMENT

IT IS ORDERED that the Defendant shall make and pay reimbursement through the Clerk of the Superior Court of Mohave County for the reasons stated on the record and in the terms and conditions of probation, in the total amount of \$200.00.

FINE

IT IS ORDERED that the Defendant, pursuant to A.R.S. § 12-116, shall pay to the Clerk of Superior Court of Mohave County a time payment fee in the amount of \$20.00.

IT IS ORDERED that all monies other than the monthly probation services fee shall be paid at the rate of \$210.00 per month, commencing on August 1, 2013 and due on that day of each month thereafter until paid in full.

The written terms and conditions of probation are handed to the Defendant for explanation, acceptance and signature. The Defendant is advised concerning the consequences of failure to abide by the conditions of probation.

The Defendant is advised concerning rights of appeal/review and written notice of those rights is provided.

3
Div.

6-7-13
Date

STEVEN F. CONN
Judge

L. Ransom
Deputy Clerk

NO. CE-2011-00819

STATE VS. David William Dargatzis

The Defendant is advised concerning rights of appeal/revlow and written notice of those rights are provided.

ORDERED exonerating any bond.

ORDERED granting the State's Motion to Dismiss any charges/allegations pursuant to the plea agreement; all charges in _____

ORDERED allowing Counsel for the Defendant to withdraw as counsel of record.

Let the record reflect that the Defendant's fingerprint is permanently affixed to this sentencing order in open Court.

The Court recesses at 2:32 a.m./p.m.

Steven F. Conn

Honorable Steven F. Conn

cc:

MOHAVE COUNTY ATTORNEY

Higgs
ATTORNEY FOR DEFENDANT

MOHAVE COUNTY PROBATION

MOHAVE COUNTY JAIL

HONORABLE STEVEN F. CONN
DIVISION 3





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AND ASSOCIATES

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SALT LAKE CITY • UTAH 84110-0810
TELEPHONE: 801•364•8300
FACSIMILE: 801•364•8355

www.stirba.com

April 5, 2013

Via Email – dansjones@utah.gov

Dan S. Jones
Bureau Manager
Division of Occupational and Professional Licensing
160 East 300 South
P.O. Box 146741
Salt Lake City, UT 84114-6741

Re: David Darger, Building Inspector License

Dear Dan:

I am writing on behalf of David Darger and the City of Hildale, whom I represent. You may remember meeting with me regarding Mr. Darger's building inspector license in December of last year. At that time you had agreed to a conditional reinstatement of Mr. Darger's license pending the outcome of a criminal proceeding against him in Arizona.

You may be aware that Mr. Darger entered into a plea agreement on March 29, 2013. We understand that, by entering a guilty plea Mr. Darger could be considered to have engaged in unprofessional conduct under Utah Code Ann. 58-1-501(2)(c). We are also aware that the Division has the option to take action against Mr. Darger under these circumstances (*see* Utah Code Ann. § 58-1-401(2) (providing the Division *may* refuse to issue a license, refuse to renew a license, revoke, suspend, restrict, place on probation, etc., if the licensee engaged in unprofessional conduct). However, because such action is discretionary, we would ask that the Division choose not take any action against Mr. Darger's license, or at the very least not revoke his license, in light of the following mitigating circumstances.

Mr. Darger's conduct arose from the following circumstances: Mohave County, Arizona keeps a "warrant account" for all fire districts in the county. The fire districts withdraw funds from that account to use for their day-to-day operations, including payroll. Mr. Darger, as Secretary-Treasurer for Hildale-Colorado City Fire District, removed funds from this account and deposited them into the Fire District's operating account so that they could be used to pay employees via direct deposit. The prosecutor argued that by depositing the funds into another



STIRBA
AND ASSOCIATES

Dan Jones
April 5, 2013
Page 2 of 3

bank account, Mr. Darger violated Arizona law (A.R.S. § 35-301(4)), despite the apparent fact that many other fire districts in Arizona followed the same practice.

The charges against Mr. Darger were therefore based upon interpretation of a little used and ambiguous Arizona statute, which even the Judge indicated reasonable minds could read either way. In fact, the statute has since been amended to clarify that Mr. Darger's conduct was, in fact, legal.

Mr. Darger had the choice to enter into the plea agreement or go to trial. Mr. Darger chose to take the plea agreement because he was concerned that the jury would convict him due to prejudices based solely on the fact that he was from Colorado City. He also could no longer afford his defense attorney and wanted to put this bad experience behind him and try to re-build his life.

Pursuant to his plea agreement, Mr. Darger will serve probation and pay a fine. Mr. Darger's probation will likely last 18 months, at the end of which his record will reflect only a class-1 misdemeanor. All other charges against Mr. Darger will be dismissed and will not be considered in any further proceedings.

As I expressed to you in my letter of December, 2012, Hildale City is a small community, for which Mr. Darger has faithfully and diligently served as building inspector for over 20 years, and wish to continue to do so in the future. Mr. Darger has extensive experience with building inspections in the community and Hildale City has the utmost confidence in his ability to continue to meet those requirements.

Furthermore, Hildale City would ask the Division to keep in mind that Mr. Darger's plea agreement only reflects charges regarding bank deposits, charges that have no bearing whatsoever on his ability to perform the job of a building inspector.

I would ask that you take this into consideration, and please feel free to contact me should you wish to discuss this matter further.



STIRBA
AND ASSOCIATES

Dan Jones
April 5, 2013
Page 3 of 3

Sincerely,

STIRBA & ASSOCIATES

R. BLAKE HAMILTON

cc: David Darger
Vincen Barlow

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,

Plaintiff,

vs

DAVID WILLIAM DARGER,

Defendant.

No CR-2011-0869

STIPULATED GUILTY PLEA

CLIENT'S COPY

The State of Arizona and the Defendant hereby stipulate to the following disposition of this case:

1. The defendant will plead guilty to: **SOLICITATION OF MISUSE OF PUBLIC MONIES, BASED UPON COUNT 4 (Warrant # 6232), AND SOLICITATION OF MISUSE OF PUBLIC MONIES, BASED UPON COUNT 20 (Warrant # 6521), UNDESIGNATED OFFENSES , IN VIOLATION OF A.R.S. §§ 35-301(4), 35-302, 13-1002, 13-701, 13-702, and 13-801.**

SAID OFFENSES, IF DESIGNATED A CLASS 6 FELONY, AND A NON-DANGEROUS OFFENSE, IS PUNISHABLE BY A PRESUMPTIVE TERM OF IMPRISONMENT OF 1 YEAR, WHICH THE COURT MAY INCREASE TO 2 YEARS OR DECREASE TO .33 YEAR, AND A FINE NOT TO EXCEED \$150,000.00 PLUS SURCHARGES AND ASSESSMENTS.

SAID OFFENSES, IF DESIGNATED A CLASS 1 MISDEMEANOR, IS PUNISHABLE BY UP TO SIX (6) MONTHS IN JAIL AND/OR A \$2,500.00 FINE, PLUS SURCHARGES.

If the Defendant is sentenced to prison, either initially at the time of Judgment and Sentencing or later at any Disposition following any probation violation, the Defendant understands that:

- * The Defendant shall serve at least 85% of any prison term imposed.
- * The Defendant shall also be sentenced to community supervision upon his release from prison for a period of time equal to 15% of his prison sentence.
- * The Defendant may be returned to prison if he violates the terms and conditions of community supervision for the remainder of his community supervision sentence.

2. The defendant will receive a sentence of: **PROBATION;** consistent with the following additional terms: **PAY RESTITUTION OF \$5,000.00 TO THE MOHAVE COUNTY ATTORNEY'S OFFICE AND \$2,000.00 TO THE MOHAVE COUNTY SHERIFF'S OFFICE FOR AND AS A COST OF THE INVESTIGATION AND PROSECUTION OF THESE MATTERS (JOINT AND**

SEVERAL LIABILITY – DEFENDANT TO GET CREDIT FOR ANY AMOUNTS PAID BY CO-DEFENDANT); NO FINE; OFFENSES TO BE DESIGNATED CLASS 1 MISDEMEANORS UPON SUCCESSFUL COMPLETION OF PROBATION; AND ALL OTHER TERMS AT THE JUDGE'S DISCRETION.

3. The following charges will be dismissed, or if not yet filed, will not be brought against the defendant: **COUNTS 4 AND 20 TREATED AS ABOVE; COUNTS 2, 6, 8, 10-12, 24, 28-30 AND 31-54 DISMISSED; THE STATE WILL NOT FILE ANY ADDITIONAL MISUSE OF PUBLIC MONIES, CONFLICT OF INTEREST, OR THEFT RELATED CHARGES COVERING DEFENDANT'S ENTIRE TENURE AS COLORADO CITY FIRE DISTRICT'S ELECTED SECRETARY-TREASURER.**
4. The elements of the offense to which the defendant is pleading guilty are as follows: **THE DEFENDANT MUST: AS A PUBLIC OFFICER CHARGED WITH THE RECEIPT, SAFEKEEPING, TRANSFER OR DISBURSEMENT OF PUBLIC MONEY, KNOWINGLY DEPOSIT PUBLIC MONIES IN A BANK NOT ON SPECIAL DEPOSIT WITHOUT AUTHORITY OF LAW.**
5. This plea and disposition, unless rejected or withdrawn, serves to amend the complaint, indictment, or information to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.
6. If the defendant is charged with a felony, he gives up his right to a preliminary hearing or other probable cause determination on the charges to which he pleads. In the event the court rejects the plea or the defendant withdraws the plea, the defendant gives up his right to a preliminary hearing or other probable cause determination on the original charges. The defendant also agrees that entering this plea agreement is not a material change of circumstances or facts which would allow a re-examination of the conditions of release pursuant to Rule 7.4(a) of the Arizona Rules of Criminal Procedure.
7. The defendant shall not have any right to appeal from the judgment or sentence imposed as a result of this stipulated guilty plea.
8. Unless the plea is rejected or withdrawn, the defendant gives up any and all motions, defenses, objections or requests which he has made or raised, or could assert hereafter, and agrees to the court's entry of judgment against him and imposition of a sentence upon him consistent with the stipulation.
9. If after accepting this plea the court concludes that any of its provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea, giving the defendant and state an opportunity to withdraw the plea.
10. When the court accepts this plea agreement, either at the time of entering this plea agreement or later, then the Defendant cannot withdraw from this plea agreement unless the Defendant can show a manifest injustice.

11. Unless expressly stated otherwise, this stipulated plea agreement does not affect any proceedings that are pending or which could be brought by the State or any other jurisdiction to forfeit any interest of the Defendant in any property.
12. I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading guilty, I will be giving up my right to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination. I will enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation in the event that I violate any written condition of my probation.
13. I also waive any right I may have to a jury determination of aggravating sentencing factors under A.R.S. § 13-701 and agree the court may consider as aggravating factors the reduction of charges, dismissed charges, conduct occurring after the entering of this agreement and all potential enhancement statutes.

I agree the judge may find any mitigating and these aggravating factors based upon any information presented to the court that the judge deems appropriate under Arizona law and sentence me to the full range of sentences specified in Paragraph 1, either at the time of sentencing or after any probation violation, unless otherwise limited by this plea agreement.

3/29/2013
DATE

David Darger
DEFENDANT
DAVID WILLIAM DARGER
DOB: 1/3/1970

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

3/29/13
DATE

Joseph Carver
DEPUTY PUBLIC DEFENDER
JOSEPH CARVER

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

3/21/13
DATE

James M. Schoppmann
DEPUTY COUNTY ATTORNEY
JAMES M. SCHOPPMANN

**CHAD NAY
IRON COUNTY
BUILDING OFFICIAL
ZONING ADMINISTRATOR**

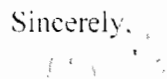
David Darger
Town of Colorado City
P.O. Box 70
Colorado City, AZ 86021

To Whom It May Concern:

I have known David Darger through the Building Inspection and land development profession since the early 90's. We have been involved together in training, licensing, seminars, code development and socializing concerning building and land management issues.

David has always been a great gentleman to be around. He is very smart, concerned and caring about the building and development industry. David is one who stands tight and true to his beliefs and convictions, very admirable trait. He is always very professional in his conduct. He possesses all the qualities it takes to be a professional; knowledge, experience, confidence, acts appropriately, dresses and is groomed well and is humble. David has always participated in trainings and meetings in a positive manor.

I enjoy being around David and appreciate his contributions to these industries.

Sincerely,


Chad Nay

Chad Nay
82 N. 100 E. Suite 102
Cedar City, Utah 84720

Office phone: 435-865-5350

David W. Darger
P.O. Box 5
Colorado City, AZ 86021

December 5, 2012

VIA HAND DELIVERY

Dan S. Jones, Bureau Manager
Division of Occupational and Professional Licensing
160 East 300 South,
P.O. Box 146741
Salt Lake City, Utah 84114-6741

Dear Dan,

As you are aware, I have submitted a renewal application for building inspector licensure and have paid the necessary fees. I also submitted a letter explaining the criminal charges I am defending in Mohave County, Arizona. In that letter I explained that the charges are false and a political retaliation. It is very similar to the Andrew Thomas abuse of power in Maricopa County, Arizona where he and the County Sheriff indicted County Supervisors, Judges and the like, in retaliation. After ruining the careers of those falsely indicted, Mr. Thomas was stripped of his license by the Arizona State Bar.

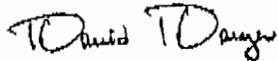
I have been working as a certified building inspector for over twenty years and would like to continue my career and employment as a Utah licensed building inspector. I am an innocent man and have done nothing to warrant disciplinary action against my license. It would be a severe injustice to allow the political prejudice in Mohave County to automatically destroy my career; especially when the issue is unrelated to the building inspection profession.

Page 1 of 2

Along with this letter, I am submitting legal filings related to the Mohave County matter as requested by Sharon Smalley from your office. I am also attaching a letter of support from Jody Hilton, CBO and from Hildale City.

Please consider this request with a kind and understanding heart, and call me if you would like to discuss this matter in greater detail. You can reach me at 435-467-2153.

Thank you,

A handwritten signature in black ink that reads "David Darger". The signature is written in a cursive style with a large initial "D".

David Darger, CBO

December 4, 2012

Dan S. Jones
Bureau Manager
160 East 300 South
Salt Lake City, Utah
PO Box 146741

Dear Dan,

I am writing this letter to express my concern that Dave Darger may not receive his building inspection license for possible "un-professional conduct". Please know that I support you and your staff investigated the background of all persons desiring to be building inspectors in order to protect the public and to preserve the professionalism of state licensed building inspectors. I have known Dave Darger for over 20 years and know him to be an outstanding inspector in rural Utah and one few inspectors at that time who took an interest in codes and had the desire to become educated and certified. I have taught classes that he has attended for many years during the St George Education Conference and has attended many education classes throughout central and northern Utah. Through the years he has called me many times with code questions and code enforcement issues. As a past Utah Chapter President, Board Member, Fire Prevention Board Member and Mechanical Code Committee Chairman, Sandy City Building Official and the current Cottonwood Heights Building Official and Director of Building and Safety for Sunrise engineering, I believe him to be an honest and forthright individual with integrity who has code knowledge and code enforcement skills and I would hire him or recommend him for hire to any building official or state agency.

If you have any questions or concerns about Dave please call me 801-557-6843

Sincerely

Jody Hilton CBO

HILDALE CITY

PO BOX 840490 • 320 E. NEWEL AVE. • HILDALE, UT 84784
PHONE (435) 874-2323 • FAX (435) 874-2603

December 4, 2012

Dan S. Jones, Bureau Manager
Division of Occupational and Professional Licensing
160 East 300 South,
P.O. Box 146741
Salt Lake City, Utah 84114-6741

Dear Mr. Jones,

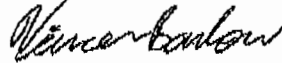
I am writing this letter to let you know that Hildale City has appreciated the building inspection services of David Darger for many, many years and we hope that he can continue to provide the service. It would place a hardship on Hildale if David were not allowed to renew his license.

Mr. Darger has always been professional, responsible and honest in his work and I highly recommend him to you. I am somewhat familiar with the indictment against David and can state with certainty that he has been mischaracterized and maligned by Mohave County.

David was involved in administering our Fire Department, and in the effort of recruitment and retention of volunteers, there were certain expenditures such as year-end appreciation awards dinners where volunteer emergency responders would be recognized. These efforts taken in public meetings and on public records were for the benefit of the Department with no ulterior motive at all, but were misconstrued by Mohave County as using public funds for personal benefit.

I understand that you are tasked with maintaining the trust of the profession, and I believe that intention will continue to be met by allowing David's renewal. Many citizens and contractors over the years have complimented David in his expertise and professionalism as a building inspector. With utmost confidence I highly recommend David Darger to you.

Sincerely,


Vincen Barlow,
City Manager



Deputy County Attorney Lisa Aubuchon's firing sheds light on feud

by Michael Klefer and Yvonne Wingett • Sept. 23, 2010 12:00 AM
The Arizona Republic

A report detailing allegations against a deputy Maricopa County attorney fired Monday provides a window into the legal and political machinations of former County Attorney Andrew Thomas' office.

The 130-page summary, obtained by *The Arizona Republic* through a public-records request, is culled from thousands of pages of interviews and observations by an independent investigator hired by Interim County Attorney Rick Romley to review the actions of Deputy County Attorney Lisa Aubuchon.

In the report, Aubuchon is accused of filing numerous cases based on insufficient evidence - including one filed merely to stop a court hearing that Thomas did not want to take place - and of misusing "the awesome power of the prosecutor's office."

Aubuchon was Thomas' enforcer - it was her name on criminal complaints and civil lawsuits lodged against county judges and elected officials. She has denied wrongdoing.

The findings almost certainly will have implications for several other investigations into the actions of Thomas, Aubuchon and Sheriff Joe Arpaio's office, which gathered evidence in the cases.

The report could be used in the U.S. Department of Justice's abuse-of-power probe into Arpaio and others. Aubuchon is one subject of that investigation.

Separately, the findings could be sent to another investigator appointed by the Arizona Supreme Court on behalf of the State Bar of Arizona to review allegations of ethical misconduct lodged against Thomas, Aubuchon and others.

Also, the report may be used by county officials, judges and others who have filed multimillion-dollar notices of claim against Maricopa County for wrongful prosecution stemming from failed corruption investigations by Thomas and Arpaio in the past two years. Those notices are the first step toward suing a government.

On Sept. 8, Chief Deputy County Attorney Paul Ahler sent a "pre-termination" letter to Aubuchon that called for her imminent firing. The letter described key findings of the independent investigation, including:

- Filed a federal racketeering lawsuit that was "nothing more than a vehicle to intimidate, retaliate and besmirch the

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reputations of judges, public officials and attorneys who had previously opposed positions taken by the Maricopa County Attorney's Office."

- Lodged a criminal complaint against a sitting judge solely to prevent him from holding a hearing that related to the prosecution of a county supervisor.
- Filed actions and presented cases to a grand jury without sufficient evidence. In one case, Ahler wrote, she "pled conclusions and used incendiary adjectives" to make her case.
- Pursued an investigation into the construction of the county's court building even after a judge ruled the County Attorney's Office had a conflict of interest in that investigation. The judge who made the ruling became the subject of the criminal and racketeering complaints.
- Refused to cooperate with coworkers and intimidated a detective and his commander who balked at swearing to the complaint against the judge.
- Showed poor judgment by asking who the Board of Supervisors might appoint to succeed Thomas during an interview with a member of the board who thought he was going to be charged with criminal offenses.

Ahler said Aubuchon's "actions brought discredit to county service," and he alleged that she "misused the awesome power of the prosecutor's office."

In a three-page letter, Aubuchon responded that the findings were unfounded. She characterized them as an attack on Thomas by "Romley's inept administration."

She was fired Monday.

Aubuchon started at the County Attorney's Office in 1998 and rose to prominence in Thomas' administration.

A previous review of Aubuchon's personnel file by *The Arizona Republic* found that her supervisors consistently praised her work with high marks and promotions.

But the new report notes that she lost a number of high-profile cases, including the prosecution of an American Civil Liberties Union lawyer for trespassing and a Chandler lieutenant whose police dog died after being left in a hot car.

As Thomas' lead prosecutor on high-profile cases against county officials, Aubuchon obtained indictments against County Supervisors Mary Rose Wilcox and Don Stapley. Those indictments were thrown out or dismissed. An out-of-county prosecutor is reviewing those cases.

Aubuchon filed criminal charges against Judge Gary Donahoe. Those also were dismissed.

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Recently, it surfaced that attorneys representing her in the state Bar inquiry hired private investigators to gather information on the Bar investigator, who told authorities he was being tailed.

Aubuchon was a "merit protected" employee, and could not be summarily fired by Romley, who was appointed as interim county attorney in April after Thomas resigned to run for Arizona attorney general. Instead, she had to be fired for cause.

Shortly after his appointment, Romley hired attorney Katherine Baker to conduct the investigation of Aubuchon. Her investigation cost at least \$68,926.26.

Even before she was fired, Aubuchon filed a \$10 million notice of claim against the county for wrongful termination, saying county officials coordinated to smear her reputation and destroy her career.

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Arizona Capitol Times

<http://azcapitoltimes.com>

More charges were planned for Maricopa officials

by The Associated Press

Published: August 11th, 2010

Documents show that Maricopa County prosecutors had planned a more sweeping indictment against many county officials, including two supervisors and two judges, than the charges that were eventually filed.

The Arizona Republic obtained a draft indictment by then-county attorney Andrew Thomas and a deputy county attorney while reviewing hundreds of documents requested under the state's public records law.

The Republic said the draft indictment against the supervisors, judges, county administrators, and their attorneys was undated, but it appeared to be a precursor to charges filed in December and later dismissed against former presiding Superior Court Judge Gary Donahoe.

It also appeared to predate a federal civil-racketeering lawsuit that Thomas and Sheriff Joe Arpaio lodged days earlier against the same defendants, largely over an investigation into the construction of a criminal-court tower in downtown Phoenix.

The incomplete indictment appeared to have been written before investigators had evidence to back up the proposed charges. It sought criminal counts of misappropriation of public money, obstructing criminal investigations, hindering prosecution, bribery of a public official and participating in a criminal syndicate.

The only detailed accusations were related to the county's hiring of a firm to sweep its offices for illegal listening devices. But no charges were ever filed regarding the sweep, although sheriff's officials are investigating.

Preliminary charges against Donahoe were filed by Thomas' office, but the judge was never indicted. That set off the appearance that Donahoe was being targeted for ruling against the sheriff and county attorney in the court-tower investigation and other cases.

Charges against Donahoe were later dropped.

Wade Swanson, director and general counsel for the county's Office of General Litigation Services, said the sheriff's office was in violation of the law to release grand jury matters such as the draft indictment.

"They are creating more legal exposure for Maricopa County," he said. "They're failed prosecutions. They all appear to be undertaken for no other reason than politics."

Barnett Lotstein, a former Special Assistant County Attorney and spokesman for Thomas, said that no inferences of guilt or innocence should be drawn from the draft.

Complete URL: <http://azcapitoltimes.com/news/2010/08/11/more-charges-were-planned-for-maricopa-officials/>

Fate Bar: Only disbarment will repair damage Thomas caused

BY GRADU
grad@azcapitoltimes.com

Attorneys seeking the disbarment of former Maricopa County Attorney Andrew Thomas and one of his attorneys say in written closing arguments filed Dec. 19 that no other penalty for the former prosecutors will repair the damage they caused.

Independent Bar Counsel John Gleason, who represents the State Bar of Arizona in the disciplinary proceedings, contends in the 32-page closing argument that Thomas and former Deputy County Attorney Lisa Jackson were blind to justice as they became enmeshed with retaliating against Thomas' enemies in the government, "causing multiple conflicts of interest, dishonesty in documents they filed in court, the filing of criminal charges without any evidence a crime had been committed."

About a year after Thomas assumed office as county attorney, it became clear that he had lost all credibility about his role as a lawyer and as County attorney," Gleason wrote.

Gleason is recommending that former Deputy County Attorney Rachel Alexander be suspended three years for her role as the lead attorney in a racket-

teering- or RICO, suit filed against county judges, supervisors, managers and private attorneys, alleging they conspired to cover up an investigation of County Supervisor Don Stapley and an investigation into the financing of a court tower.

Gleason wrote that Alexander, an inexperienced lawyer, proceeded with the RICO suit despite knowing she wasn't competent enough to handle the complex area of law involved in the case.

He filed an accompanying 158-page document and witness testimony presented in the disciplinary proceeding to support each of the ethical rules violations allegedly committed by Thomas, Aubachon and Alexander.

Gleason wrote, however, that Thomas and Aubachon deserved to be disbarred solely for filing trumped up criminal charges against retired Maricopa County Superior Court Judge Gary Donahoe.

"Prosecutors cannot be allowed to practice law after charging someone with no evidence to support the

charges," Gleason wrote. "Any other result would be a grave insult to the professional prosecutors who currently serve in (the Maricopa County Attorney's Office), Arizona and the United States."

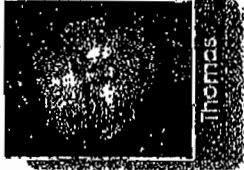
Gleason wrote that Thomas, Aubachon, Sheriff Joe Arpaio and former Chief Deputy David Heidershott cooked up charges of bribery, hindering and obstruction to stop Donahoe from holding a scheduled hearing on a matter related to the County Attorney's Office.

None of the attorneys defending the three former prosecutors returned calls seeking comment.

The disciplinary proceedings began on Sept. 12 and ended Nov. 2.

All of the alleged ethical violations are related to various conflicts Thomas had with county supervisors, Superior Court and county managers from 2006 until he resigned in April 2010 to run for attorney general.

Any decision on the future of the former prosecutors won't come until March. They have until Jan. 15 to respond to Gleason's arguments and Gleason has until Jan. 31 to provide the last word, after which a three-member panel has 30 days to issue its findings.



Thomas

BY DEBBIE
debbie@azcapitoltimes.com

ASIS Schools President Craig Barrett a proposed ballot measure he's working on may be shifting away from general education funding and toward a system that allows struggling schools more opportunities to succeed and flourish.

Barrett head of BASIS charter schools

likely by extending Proposition 100 or enacting a different tax hike - and implementing teacher accountability measures, such as performance pay.

But Barrett said the grim economic and fiscal situations the state faced over the summer when the coalition first started meeting have improved.

"The central theme of the initiative



Barrett

system? We started off our dialogue focused solely on education, and I think there's perhaps less immediacy on the general education funding that there was when we started."

For example, Bar-

rett said the state should try to turn around failing schools. But if a school continues to fail, he said, the state should give students the opportunities to go elsewhere.

"I frankly don't have a lot of enthusiasm for just protecting an existing system that's not doing the job," Barrett said.

Barrett: Ballot measure may take new direction to fund education excellence

CATCHING UP IN CD8

The Republican candidates vying to face presumptive Democratic nominee Ron Barber in the special election for CD8 have little time to make up ground on GOP front-runner Jesse Kelly.
STORIES ON PAGE 3

"I am pro-life, but I'm also pro-choice during the debate April 10 of 1982008, which
CAPITOL QUOTES ON PAGE 8

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THE ARIZONA

ArizonaCapitolTimes.com

Attorneys say FBI probe likely goes beyond Horne campaign allegations

Jeremy Duce
jeremy.duce@azcapitoltimes.com

Allegations of campaign law violations against Attorney General Tom Horne that were laid out in a complaint filed with the Arizona Secretary of State's Office may only scratch the surface of the FBI's investigation.

The FBI probe is raising eyebrows in Arizona's legal community, especially in light of recent revelations that the feds started looking into Horne and an independent expenditure committee that supported him more than a month before the complaint was filed with the secretary of state.



Horne

Don Dybus, an attorney with Horne's Tucson office, alleged in a Feb. 11 complaint that Horne illegally collaborated with Business Leaders for Arizona and promised its chairman, Kathleen Winn, a high-paying job with the Attorney General's Office as a reward for her campaign work.

Horne hired Winn as his community outreach director after the election. Her salary is about \$95,300.

Dybus accused Horne of violating two state laws and one federal statute. But the federal law Dybus accused Horne of breaking is only a misdemeanor. Paul Charlton, former U.S. attorney for the district of Arizona, said it's highly unlikely that the FBI would take much interest in a relatively minor charge, and guessed the feds were looking into allegations that were more serious.

Charlton emphasized that Horne has not been found guilty, or even charged with a crime. The fact that there's an investigation, he said, is not indicative of guilt. But he said it would be rare for the FBI or U.S. Department of Justice to put so much focus on a misdemeanor offense.

Continued on page 4



CONSPIRACY 1

State Bar links Arpaio to actions that led to

DARY GRADO
gary.grad@azcapitoltimes.com

The panel that disbarred former Maricopa County Attorney Andrew Thomas found he conspired with Sheriff Joe Arpaio to commit crimes, a fact that the sheriff will likely have to contend with as federal investigators look into whether he abused his power.

The historic corruption trial targeted both Thomas and...

scottors, but the sheriff and his office were cited prominently in the panel's 247-page report, and witness testimony seemed to put the sheriff himself on trial, linking Arpaio to a series of events that led to Thomas' downfall.

Legal observers say the disciplinary proceedings and subsequent findings of Arpaio's pivotal role in the scandal could strengthen any case the federal government is building against him or his office, and put him on notice that he could soon



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NUMBER 8 47
MAY 2014

TREASURER TALK

Conspiracy theory

continued from the front page

"That's their opinion," Arpaio told the *Arizona Capital Times*.

But former U.S. Attorney for Arizona Paul Charlton said the finding was striking because the panel said the conspiracy could be proven beyond a reasonable doubt in a criminal trial.

"That clearly places the ball in the Department of Justice's court. It would be very difficult if not impossible, to ignore such a finding," Charlton said.

Arpaio said he isn't worried about the federal government's response to the report because the information in it has been public for years. He declined further comment because the Sheriff's Office has been sued by people who were the target of Thomas' failed investigations and criminal cases that led to his disbarment.

Charlton said the Department of Justice has an obligation to either act on the findings or explain why it won't act since the disciplinary case was an extraordinary and so important.

Charlton said he would be "most concerned" if he were the subject of such a finding.

Former Maricopa County Attorney Erik Runley, who sparred regularly with Arpaio during his time in office, said the panel's sharply worded report on its findings will lead to the strength of any case federal officials are now building.

"I'm sure it got their attention, but it doesn't mean there are potential criminal charges coming out of it," Runley said.

The report itself will only be a supplement to an overall investigation.

"The real substance comes from the testimony," he said.

The report mentions that 48 witnesses testified during the eight-week hearing, and many of them were sheriff's deputies, deputy county attorneys and investigators with the County Attorney's Office who took principled stands against the demands of Thomas and Aubuchon, and by extension, Arpaio and Henderson.

Donahoe's civil attorney, Michael Manning, said further evidence in the form of testimony from Sheriff's Office employees and a large batch of office e-mails, which are in the hands of federal investigators probing abuse of power allegations, will show Arpaio was a fully involved partner with Thomas in all of the events that were the subject of the disciplinary hearing.

"I don't think there is anyone that ... followed what happened here that believes that Joe wasn't pulling the puppet strings here. It's so clear to anyone who has followed the evidence that Joe did pull the puppet strings on Thomas and Aubuchon," said Manning, who has won large jury awards in wrongful death suits against the Maricopa County Sheriff's Office.

Jack MacIntyre, a spokesman for Arpaio's office, said he isn't certain which e-mails Manning is talking about because the agency has turned over 60,000 pages of e-mails to the federal government and in civil discovery, and only withheld or opposed ones that fell under attorney-client privileges.

"We've been an open book," MacIntyre said.



Maricopa County Sheriff Joe Arpaio, middle, gives way to two of his attorneys, Joseph Popolito, right, and John Matkinson, while holding a news conference April 11 in Phoenix. Federal authorities are trying to settle civil rights allegations against Arpaio said that the Sheriff's Office has negotiated in bad faith and is ending settlement talks.

lyre said.

Thomas and Aubuchon were disbarred April 10 and another former deputy county attorney, Rachel Alexander, was suspended for six months and a day.

The panel found that Thomas and Aubuchon waged a war of retaliation against Thomas' and Arpaio's political enemies for years.

The panel's report provided in minutes detail the evidence against the three attorneys.

Figuring prominently throughout the narrative was Arpaio, especially when it came to Donahoe.

"Chief Henderson said that he had met with Mr. Thomas, Mr. Aubuchon, and Sheriff Arpaio, and that Sheriff Arpaio came up with the idea of charging the judge," the report read, citing Henderson's testimony in October.

The panel found Thomas and Aubuchon violated seven ethical rules in connection with the prosecution of Donahoe. Two of those rules violations were for "violation of a criminal law" which in this case involved perjury and a federal law that makes it illegal to conspire against a person's constitutional rights.

Thomas charged Donahoe with bribery, hindering prosecution and obstructing a criminal investigation on Dec. 9, 2009.

The charges stemmed from the judge disqualifying the County Attorney's Office from investigating the financing of a planned downtown courthouse and other legal decisions that were unfavorable to the county attorney and sheriff.

Donahoe had previously scheduled a hearing on the day he was charged in hearings on the dispute between the county and Thomas over his authority to appoint special prosecutors in Maricopa County Supervisor Don Stapley.

Investigators from the County Attorney and Sheriff's Office testified that there had been no investigation of Donahoe that could legitimately lead to charges, and that Aubuchon and Henderson were insistent that the charges be filed immediately.

The text from an old State Bar of Arizona complaint Henderson filed against Donahoe was copied onto the criminal complaint and served as the basis for the charges, but none of the investigators would attest to the truthfulness in spirit. Aubuchon eventually found a detective, Obe Almazra, who reluctantly signed the criminal complaint.

Mr. Thomas and Ms. Aubuchon are ultimately accountable for the conduct of Detective Almazra because they knowingly caused him to sign and file a false

document and/or they ratified his conduct after he had signed the complaint," the panel wrote.

The panel concluded there was absolutely no evidence to charge Donahoe and the only reason it was done was to prevent him from holding the hearing involving Stapley.

The panel said the most telling evidence of that was the testimony of Sheriff's Office detective Brandon Lutz, who said that Aubuchon appeared pleased and happy when she got the news that Donahoe canceled the hearing and Henderson responded to the news by saying "bookcase."

And since the lawyers and lawmen tried to prevent Donahoe from doing his job, they violated federal law against conspiring to prevent someone from exercising their constitutional rights, the panel found.

"Were this a criminal case, we are confident that the evidence would establish this conspiracy beyond a reasonable doubt," the panel wrote.

Thomas said in a press conference Wednesday that the "conspiracy" was nothing more than law enforcement professionals discussing whether to charge someone with a crime, an event that occurs thousands of times a year.

David W. Darger
P.O. Box 5
Colorado City, AZ 86021

November 29, 2012

VIA FAX & US MAIL

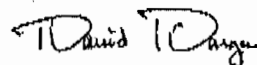
Sharon Smalley
Division of Occupational and Professional Licensing
160 East 300 South, Box 146741
Salt lake City, Utah 84114-6741

Dear Sharon,

In relation to the notice of incomplete application and conditional denial dated November 6, 2012, I am hereby requesting an extension of the thirty day deadline to gather the requested information and mail it to you.

I have left you a voicemail with a verbal request. I am faxing this request along with your letter of November 6th. You can reach me at 435-467-2153 if you have any further questions.

Thank you,



David Darger



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

GARY R. HERBERT
Governor

FRANCINE A. CIANI
Executive Director

MARK B. STEINAOEL
Division Director

November 6, 2012

DAVID W DARGER
PO BOX 3
COLORADO CITY AZ 86021

RESPONSE DEADLINE: 30 DAYS FROM THE DATE OF THIS LETTER

Dear Applicant:

Notice of Incomplete Application and Conditional Denial:

Your application for licensure as a Combination Inspector is conditionally denied because it is incomplete and cannot be processed. The following items are needed to process your application:

Unlawful or unprofessional conduct. You have answered on the qualifying questionnaire that you have previously engaged in unlawful or unprofessional conduct or have had disciplinary action taken against you by another agency

You have failed to provide all police reports and copies of all pleadings.

Utah Code Annotated § 58-1-401(2) provides the Division may deny licensure when an applicant has engaged in unprofessional conduct. Utah Code Annotated § 58-1-501 (2)(c) provides unprofessional conduct includes a conviction which when considered with the functions and duties of the occupation bears a reasonable relationship to the ability to safely or competently practice the occupation.

Response Procedure:

In order to have your application for licensure approved, you must correct the deficiencies in your application. Please submit the items listed above with a copy of this letter to:

Sharon Smalley
Division of Occupational and Professional Licensing
160 East 300 South, Box 146741
Salt Lake City, Utah 84114-6741

Failure to submit listed items by the deadline will result in a final denial of your application:

Your application is only conditionally denied because it is incomplete. If the listed items are not received by the Division by the deadline, your application will be denied and you will be required to submit a new application and comply with the licensing requirements that are in effect at the time of submittal.

Presumption a Response is Complete:

Unless you specify otherwise, the Division will treat any response received from you prior to the deadline as your final response, and may take final action immediately.

If you have any questions, or wish to request an extension of the deadline date call the individual below. If you are requesting an extension, either verbally or in writing, it must be received prior to deadline.

Sincerely,

Sharon Smalley
Sharon Smalley
FOR THE BUREAU MANAGER
801-530-6163