

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

RENO
9670 Gateway Drive, Suite 100
Reno, Nevada 89521
(775) 688-1141
Fax (775) 688-1271
Investigations (775) 688-1150

LAS VEGAS
2310 Corporate Circle
Suite 200
Henderson, Nevada 89074
(702) 486-1100
Fax (702) 486-1190
Investigations (702) 486-1110



MEMBERS

MICHAEL ZECH
Chairman
DOUGLAS W. CARSON
MARGARET CAVIN
DAVID W. CLARK
SPIRIDON G. FILIOS
JERRY HIGGINS
RANDY SCHAEFER

STATE CONTRACTORS BOARD

**MINUTES OF THE MEETING
MARCH 25, 2003**

1. CALL TO ORDER

Chairman Michael Zech called the meeting of the State Contractors Board to order at 8:36 a.m. Tuesday, March 25, 2003, State Contractors Board, Henderson, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Michael Zech - Chairman
Mr. Douglas W. Carson
Ms. Margaret Cavin (via video conference)
Mr. David Clark
Mr. Spiridon G. Filios
Mr. Jerry Higgins
Mr. Randy Schaefer

BOARD MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Ms. Nancy Mathias, Licensing Administrator
Mr. George Lyford, Director of Investigations
Mr. Chris Denning, Deputy Director of Investigations

LEGAL COUNSEL PRESENT:

Ms. Carolyn Broussard, Legal Counsel
Mr. Bruce Robb, Legal Counsel (Walter Bruce Robb)

Ms. Grein stated that Bob Macke had posted the agenda in compliance with the open meeting law on March 19, 2003 at the Sawyer State Building, Clark County Library, and Las Vegas City Hall. The agenda was also posted in both offices of the Board, Henderson and Reno, and on the Board's Internet web site.

It was learned there were 20 items on the amended agenda, each item of an emergency nature. Ms. Grein stated that there are additional legislative matters to discuss that were not posted on the agenda.

It was moved and seconded to hear the amended agenda. THE MOTION CARRIED.

Chairman Zech called for a motion to approve the minutes of March 11, 2003.

It was moved and seconded to approve the minutes of March 11, 2003. THE

MOTION CARRIED.**3. LEGAL REPORTS:****a. DISTRICT COURT PJR – ELIZAGOYEN:**

Ms. Broussard advised the Board regarding the Sauveur Elizagoyen Construction case in District Court in Elko. Ms. Broussard stated she has been working with the Respondent's attorney on a settlement agreement and provided the terms of that agreement.

It was moved and seconded to give Ms. Broussard the authority to sign the settlement agreement. THE MOTION CARRIED.

4. LEGISLATIVE DISCUSSION:**a. AMERICAN STRATEGIES:**

Mr. Jay Palmer of American Strategies was present, via videoconference, and provided the Board with an update on legislative bills, which may affect the Board. Weekly reports are provided to Ms. Grein and the Board members, in addition to updates at each Board meeting.

b. PENDING LEGISLATION INCLUDING SB 241, SB273, SB371 AND AB220:

Mr. Parmer reviewed with the Board information on pending legislative law. The following bills were discussed: SB 241, 273, 371, 437, 132, 310, 364, and 389 plus AB 220, 347, 446, and 449.

Mr. Bill Quinn, Vice Chairman for the Clark County Health Department, spoke with the Board regarding mold remediation and how the Contractors Board and the Board of Health could work together on this matter.

Ms. Grein advised the Board of AB 262 being heard by the Assembly Government Affairs concerning the various changes to the laws governing manufactured housing and mobile homes. This bill allows Manufactured Housing dealers to act as general contractors and authorizes the Manufactured Housing Division to license specialty contractors in all classifications.

5. SUBCOMMITTEE REPORTS:**b. RECOVERY FUND SUBCOMMITTEE:**

Mr. Schaefer provided the Board statistics regarding the Recovery Fund. The Board has received 48 claims against the Recovery Fund and payment has been authorized in 29 claims. Mr. Schaefer provided the Board an overall statistical report for the Recovery Fund.

c. CONSTRUCTION MANAGEMENT SUBCOMMITTEE:

Ms. Grein advised the Board she had spoken with James Spaulding from the Architects Board who requested language regarding the exemption for Construction Managers. Mr. Robb indicated that he has provided this proposed language to Mr. Haney for a final draft, which could be available by the next Board Hearing for review.

d. CLASSIFICATION/REGULATION SUBCOMMITTEE:

Ms. Cavin reminded the Board of the Hearings in Las Vegas & Reno to discuss the

changes to the C-19 and C-20 License classifications.

6. BOARD GOVERNANCE AND ADMINISTRATION:

a. DELEGATION OF HEARING OFFICERS PURSUANT TO NRS 624.140:

MAY 6, 2003: Mr. David Clark and Mr. Jerry Higgins were designated as the Hearing Officers for the May 6, 2003 Reno Hearings.

MAY 20, 2003: Mr. Spiridon Filios was designated as the Hearing Officer for the May 20, 2003 Las Vegas Hearings.

b. LEGISLATIVE REVIEW:

Chairman Zech informed the Board that he requested Mr. Robb to attend the Legislative hearings with Ms. Grein as necessary.

c. DISCUSSION OF TRADE ASSOCIATION PROGRAMS:

Ms. Grein provided a list of Trade Associations' scheduled meetings and informed the Board that she would be attending several of the meetings.

d. DISCUSSION OF NON-COMPLIANCE WITH NAC 624.640(3):

Mr. Robb informed the Board of a recent Court Rule 79 in the Supreme Court dealing with requirements to provide information such as e-mail addresses, fax numbers, home address and phone numbers.

e. DISCUSSION RE: RECENT NEVADA SUPREME COURT DECISION:

Mr. Robb informed the Board of a Supreme Court decision that eliminated some issues of discrimination as an issue in a disciplinary proceeding.

f. DISCUSSION OF RECIPROCAL LICENSE CLASSIFICATIONS WITH CALIFORNIA:

Ms. Mathias provided information concerning the addition of several classifications to the reciprocal agreement with the State of California.

Ms. Cavin stated that because there are safety issues involved, she would like the contractors to test for the electrical and plumbing categories.

It was moved and seconded to accept the modified agreement with the condition that applicants for electrical and plumbing classification licenses also provide a master certificate in the trade. THE MOTION CARRIED.

g. DISCUSSION ON CONTRACTOR FORUMS – APRIL 2ND AND APRIL 8TH:

Ms. Grein reminded the Board of the Education Forum scheduled April 2, 2003 in Las Vegas and April 8, 2003 in Reno.

7. EXECUTIVE SESSION:

a. STRATEGIC PLANNING SESSION:

The Board discussed the streamlining of applications.

b. DEPARTMENT STATUS:

1. INVESTIGATIONS:

Mr. Roy Schoonmaker, Supervisor for Special Investigations, introduced SIU Investigator Bill Adamson to the Board.

2. HUMAN RESOURCES:

Mr. Bart Thurgood, Human Resources Manager, presented a report concerning Human Resources activities.

3. PUBLIC RELATIONS:

Ms. Sonia Ruffin, Public Relations, provided information to the Board regarding the AGC Construction Expo on April 22, 2003 for the NAMC Minority Association. Ms. Ruffin requested ideas for the spring newsletter.

The Remaining items in the Executive Session were continued to the April 8, 2003 meeting in Reno.

8. ADVISORY OPINION:**a. NORTEL NETWORKS, LICENSE REQUIREMENTS FOR INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT PURSUANT TO NRS 624.031(3):**

Would Nortel Networks' installation of telecommunication equipment require a contractors license?

Based upon the information provided, the Board opined that a C-2(Electrical) or a C-2(e) (Signal Systems) license classification would be required to perform the installation of telecommunications equipment.

b. CANYON CONSTRUCTION COMPANY, LICENSE LIMITATIONS FOR PLUMBING WORK ON AB LICENSE:

Can the plumbing work of the project exceed the license limit of the C-1 plumbing license held by Canyon Construction since the entire project is being bid by Canyon as a general contractor under its AB license? Can the general contractor provide the mechanical equipment and subcontract the HVAC installation and warranty work without the cost of the equipment being considered as a portion of the subcontractor's license limit?

Based upon the information provided, the Board opined that since Canyon Construction is bidding to be the general contractor and the plumbing subcontractor, the license limit placed on Canyon Construction's C-1 license number 53540 would be applicable for the plumbing work. Additionally, the Board opined that a general contractor would not be prohibited from providing equipment to a subcontractor if the subcontractor bid only the labor portion of the project provided the bid specifications and/or contract documents did not require the subcontractor to provide both labor and materials. The Board cautioned that the arrangement must not be used to circumvent license limits.

c. SCARECROW LATH & PLASTER, INC., EXPANSION OF LICENSE FOR LATH/STUCCO:

What license classification would be required to install nonstructural veneer stone products?

Based upon the information provided, the Board opined that a C-18 license would be

required. Based upon the limited scope of work, the license could be restricted to the application of nonstructural veneer stone only.

d. COMMUNITY COLLEGE OF SOUTHERN NEVADA, LICENSE REQUIREMENTS FOR EXPANSION OF PARKING LOT AREA:

What license classification would be required to perform the expansion of a parking lot area by removing curbing, lighting, and sodded areas and installing asphalt, new curbs and gutters under bid number 03-0306?

Based upon the classification information provided, the Board opined that an A (General Engineering); AB (General Engineering & Building); A-12 (Excavating, Grading, Trenching and Surfacing); and A-16 (Paving of Streets, Driveways and Parking Lots) license classification would be required to perform the work.

e. RYAN MECHANICAL, INC. LICENSE REQUIREMENTS FOR HVAC EQUIPMENT REPLACEMENT, SEWAGE MERATOR INSTALLATION, VAULT DIGGING & CONCRETE, ELECTRICAL SERVICE TO MECERATORS:

What license classification would be required to perform the mechanical, plumbing and electrical upgrade base bid for Clark County Bid Number 5264-03?

Based upon the information provided, the Board opined that a licensee with a C-21 and C1 classification license could act as the prime contractor on the project, provided that a properly licensed subcontractor is hired to perform any electrical work.

9. APPLICATION INTERVIEW:

THE LARSON COMPANY, ANDREW MESSING, CEO:

Mr. Andrew Messing, CEO of The Larson Company and Ms. Pat Potter, Licensing Supervisor were sworn in.

Ms. Pat Potter informed the Board that this matter had been tabled on February 25, 2003 due to the Board's concern regarding applicant's finances.

It was moved and seconded to close the meeting to the public in accordance with NRS 241.033 to discuss financial matters. THE MOTION CARRIED.

Ms. Potter reviewed the applicant's financial statement, which had been received today.

It was moved and seconded to reopen the meeting to the public. THE MOTION CARRIED.

It was moved and seconded to table this matter for 90 days for additional proof of financial responsibility. THE MOTION CARRIED.

CHAIRMAN ZECH ABSTAINED.

10. APPLICATIONS: (CLOSED MEETING PURSUANT TO NRS 241.030)

It was moved and seconded to close the meeting to the public in accordance with NRS 241.030 to discuss financial matters. THE MOTION CARRIED.

L & W CONSTRUCTION INC. (B-2 RESIDENTIAL & SMALL COMMERCIAL)
NEW APPLICATION

Michael S. White, Secretary of L & W Construction Inc., was present. The Board

informed Mr. White that the license application (B-2 Residential & Small Commercial) was granted with a monetary limit of \$250,000 and a bond of \$30,000, contingent upon indemnification of the license and a financial statement upon renewal.

QUINN DEVELOPMENT AND CONSTRUCTION INC., (B-2 RESIDENTIAL & SMALL COMMERCIAL) NEW APPLICATION

Mr. William E. Quinn IV, President of Quinn Development and Construction Inc. was present. The Board informed Mr. Quinn that the license application (B-2 Residential & Small Commercial) was granted with a monetary limit of \$3 million and a bond of \$30,000.

TIMBERLINE ARCHITECTURAL OPENINGS, LLC., (C-3 CARPENTRY) ONE TIME RAISE IN LIMIT

Mr. Robert W. Paddock, Member of Timberline Architectural Openings, LLC., was present. The Board informed Mr. Paddock that the one time raise in limit was denied.

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 19, 21, 22, 23, 24, 27, 28, 29, 30, 30, 31, 32, 33, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125; and on the amended agenda: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20.

It was moved and seconded to reopen the meeting to the public. THE MOTION CARRIED.

11. DISCIPLINARY RE-HEARING: (CONTINUED FROM JANUARY 28, 2003)

THE TRITON COMPANY, INC., LICENSE # 50584

Mr. Steven Mallasch, President of The Triton Company, Inc., and Investigator Jeff Sudweeks were sworn in. Richard Brown, attorney for The Triton Company, Inc. was present.

The hearing was for possible violation of NRS 624.301(1); NRS 624.302(6); NRS 624.302(5); NRS 624.3013(3); and NRS 624.3013(5), as set forth in NAC 624.700(3)(a).

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Mr. Brown informed the Board that Respondent is in the process of reorganizing his finances and would like the Board to reconsider it's previous findings by rescinding the revocation of the license. The Respondent has settled his claim with Pace Contracting.

It was moved and seconded to rescind the revocation of license #50584, The Triton Fence, Inc.; license will be placed in a canceled not renewed status; Respondent must comply with any established requirements prior to Board's consideration of future licensure.

12. CONTINUED HEARING – STATUS UPDATE:

CARPET WAREHOUSE & TILE, INC., LICENSE #45276-(CONTINUED FROM 12/17/02, 1/27/03, AND 2/25/03)

Investigator Troy Beaver informed Mr. Schaefer that he had visited the job site on March 21, 2003, and items on the Notice to Correct have been completed.

Mr. Schaefer requested this matter be placed on the next Las Vegas agenda for a final decision.

ADJUDICATING BOARD MEMBER: DOUGLAS W. CARSON

14. DISCIPLINARY HEARING:

WESTSIDE MAINTENANCE & CONSTRUCTION, LICENSE #46280

Mr. Fred C. Dalton, Owner of Westside Maintenance & Construction; Ms. Debra Dalton; Ms. Terrie Arbogast; Ms. Tammi Whiles-King; and Investigator Dan Hammack were sworn in. Kurt C. Lambeth, attorney for Westside Maintenance & Construction was present.

The hearing was for possible violation of NRS 624.3016(2) and NRS 624.3013(5), as set forth in NRS 624.265(1)(a).

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Investigator Hammack testified that the Respondent plead guilty to a crime involving moral turpitude on November 2, 2001.

Mr. Lambeth stated that Respondent has pled guilty to a gross misdemeanor charge of assault. Mr. Lambeth stated that his plea of guilty was to keep his family from going through a court hearing. Respondent has been in business for many years and his business has flourished in spite of the allegations brought against him. Mr. Lambeth requested the Board allow Respondent to continue to do business in the State of Nevada.

Ms. Debra Dalton, Ms. Terry Arbogast and Ms. Tammi Whiles-King testified to the character of Respondent.

Mr. Dalton testified that he has been in business in Nevada for five years and currently has 15 employees. Mr. Dalton stated he is going to counseling, must report to his Probation Officer every month and is unable to leave the State until his 3 year probation is completed on July 22, 2005. Mr. Dalton testified that he is now a registered sex offender in the State of Nevada due to his guilty plea.

Respondent's "Psychological Evaluation Report" was entered into the record as Exhibit B.

Respondent's advertising pamphlet was entered into the record as Exhibit C.

The evidentiary portion of the hearing was closed.

Hearing Officer Carson found Westside Maintenance & Construction, License #46280, in violation of all causes of action; placed license #46280 on probation to run concurrent with Respondent's criminal probation until July 2005; Investigator Hammack to contact Respondent's probation officer every 60 days and if Respondent violates parole license #46280 will be suspended; Respondent to be accompanied by another employee to all job sites; and to recover the Investigative Costs \$1,657.

15. DISCIPLINARY HEARING:

CONSTRUCTION UNLIMITED INC. d.b.a. MONUMENT CONSTRUCTION, LICENSE Nos. 46423, 46616, & 46617

This matter was continued to the April 22, 2003 Las Vegas Board Meeting.

16. DISCIPLINARY HEARING:**ENVIRONMENT FOR LIVING, INC. LICENSE #36692**

Mr. James W. Jones, President of Environment for Living, Inc.; Ms. Pat Potter, Licensing Supervisor; and Investigator Bob Macke were sworn in. Mr. Keith Gregory, attorney for Environment for Living, Inc. was present.

The hearing was for possible violation of NRS 624.3013(5), as set forth in NAC 624.640(5), NRS 624.3013(2), NRS 624.3016(8), and NRS 624.520.

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Investigator Macke testified that Respondent is a B-2 contractor and filed an affidavit exemption from the Residential Recovery Fund and that Respondent performed residential work.

Mr. Gregory advised his client was not required to participate in the Residential Recovery Fund since he was not a residential contractor as defined in NRS 624.450.

Hearing Officer Carson directed Attorney Gregory to submit a brief within 30 days; for the Board attorney to respond within 15 days; for Attorney Gregory to reply within 5 days; documents are to be submitted to Adjudicating Board Member Carson for his decision.

17. DISCIPLINARY HEARING:**JAEHN CONSTRUCTION WEST, LICENSE #19223**

Rodney Lee Jaehn, Partner for Jaehn Construction; Dan Reeder, Supervisor for Clark County Building Department; Mark Rodney, Operations Manager for Jaguars; Rob Valdez, Estimator for Johnson Electric; Paul Hammons, Inspector for Clark County Building Department; John Kubota, Engineer for Kubota & Associates Engineers; and Investigator Welch were sworn in. Christopher McCullough, attorney for Jaehn Construction; Michael Sanft, attorney for Jaguars; and Brian P. Clark, attorney for Johnson Electric were present.

The hearing was for possible violation of NRS 624.3011(1)(a); NRS 624.3011(1)(b)(1); NRS 624.3013(1); NRS 624.3015(3); NRS 624.302(6); and NRS 624.3013(5), as set forth in NAC 624.640(6).

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Investigator Welch testified that on or about March 3, 2000, Jaehn Construction had entered into a verbal contract with Jaguars Gentleman's Cabaret for the construction of a two-story building for a total in excess of approximately \$1 million. Mr. Welch further testified that Respondent entered into a contract with Panda Refrigeration for the installation of HVAC at the Jaguars Gentleman's Cabaret for the contract amount of \$150,750. Panda Refrigeration's license was suspended at the time of contract and was over the license limit. Mr. Welch further testified that documents were requested, but were not furnished by the Respondent.

Mr. Dan Reeder testified regarding the Notice of Corrects issued to Jaehn Construction and the Stop Work order issued for exceeding the scope of the permit. Three additional citations were issued after the above deficiencies were discovered.

Mr. Mark Rodney testified that he is the Operations Manager for Jaguars. He supervised the project, which had delays due to Respondent's failure to follow the approved plans, plus he supervised the sub-contractors. Mr. Rodney testified that he was served the stop work order, which caused a delay of 8-10 weeks.

Mr. Rob Valdez testified that he contracted for the electrical portion on the Jaguar project. Mr. Valdez stated that as the project began many delays were encountered related to plan issues. There were design changes that caused substantial changes to the electrical.

Mr. John Kubota testified that he is a Civil Instructor Engineer with Dennis Wess Architect and had been involved with the engineering for the Jaguar project. He further testified that the designs were being changed constantly.

Mr. Paul Hammons testified that he performed several inspections for framing and drywall and was not involved with the structure.

Mr. Rodney Jaehn testified that he supervised the project. Mr. Jaehn stated that Mr. Gilardi asked him to work on this project. Plans were prepared, however, there was no written contract. As the job progressed many problems were encountered due to there being over 500 change orders. Mr. Jaehn testified that his trailer on site was broken into and all the records pertaining to the job site were taken. Mr. Jaehn further testified he was paid in cash by Mr. Gilardi for his work.

The evidentiary portion of the hearing was closed.

Hearing Officer Carson found Jaehn Construction West, License #19223, in violation of the 6th cause of action and NRS 624.3015(2); dismissed the 1st, 2nd, 3rd, 4th, and 5th causes of action; ordered Respondent to pay a fine of \$500 per violation for a total of \$1,000; placed a 2- year letter of reprimand in Respondent's file; ordered recovery of the Investigative Costs of \$1,234; fine and costs to be paid within 30 days.

18. DISCIPLINARY HEARING:

PANDA REFRIGERATION, LICENSE #26472

Mr. Bestari C. Gandha, Partner for Panda Refrigeration; Toni Gandha, Partner for Panda Refrigeration; and Investigator Welch were sworn in. Carolyn Ellsworth, attorney for Panda Refrigeration was present.

The hearing was for possible violation of NRS 624.302(1)(b); NRS 624.3015(2); and NRS 624.3013(5), as set forth in NAC 624.640(5).

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Mr. Welch testified that Respondent had contracted with Jaehn Construction while their license was suspended. The contract was over Respondent's license limit and did not contain the license limit.

Ms. Ellsworth stated that Respondent acknowledges that the bid did not contain their monetary limit.

A copy of the bid proposal was entered into the record as Exhibit B.

Ms. Ellsworth stated that the allegations were not being contested. This issue was

caused by clerical problems in the office due to an ex-employee not paying the licensing renewal in a timely manner.

The evidentiary portion of the hearing was closed.

Hearing Officer Carson found to dismiss the 3rd cause of action and to find Panda Refrigeration, License #26472 in violation of the 1st and 2nd causes of action; ordered Respondent pay a \$250 fine on the 1st cause of action and a \$1,000 on the 2nd cause of action for a total of \$1,250; placed a one year letter of reprimand in Respondent's file; ordered recovery of the Investigative Costs of \$1,210; fine and costs to be paid within 90 days or license will be automatically suspended.

19. ADJOURMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:09 p.m.

Respectfully Submitted,

Melinda Mertz, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Michael Zech, Chairman