

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

RENO
9670 Gateway Drive, Suite 100
Reno, Nevada 89511
(775) 688-1141
Fax (775) 688-1271
Investigations (775) 688-1150

LAS VEGAS
4220 So. Maryland Parkway
Building D, Suite 800
Las Vegas, Nevada 89119
(702) 486-1100
Fax (702) 486-1190
Investigations (702) 486-1110



STATE CONTRACTORS' BOARD

MINUTES OF THE MEETING APRIL 18, 2000

MEMBERS
KIM W. GREGORY
Chairman
DOUG CARSON
MARGARET CAVIN
DENNIS K. JOHNSON
RANDY SCHAEFER
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 8:44 a.m., Tuesday, April 18, 2000, State Contractors' Board, Las Vegas, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Kim Gregory - Chairman
Mr. Doug Carson
Ms. Margaret Cavin
Mr. Dennis Johnson
Mr. Randy Schaefer
Ms. Deborah Sheltra
Mr. Mike Zech

BOARD MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. Robert Griffy, Legal Counsel (Haney, Woloson & Mullins)
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
Mr. Hal Taylor, Legal Counsel
Ms. Nancy Mathias, Licensing Administrator
Mr. George Lyford, Director of Special Investigations Unit
Mr. Rick Bertuzzi, Director of Investigations
Ms. Pat Potter, Licensing Supervisor
Mr. Linc Dante', Investigator
Mr. Bob Macke, Investigator
Mr. Greg Mincheff, Investigator
Mr. Ron Ramsey, Investigator
Ms. Betty Wills, Recording Secretary

OTHERS PRESENT:

Cari Inkenbrandt, Court Reporter, CSR Associates of Nevada; Danny Encinias, Owner, Danny Encinias' Fly Right Painting Company; Jerry Klaizner, President, Ace Plumbing & Mechanical Inc.; John Zell, Owner, Advanced Concrete Cutting; James and April Yacksyzn, Manager/Member, Performance Metal Work; David Grashuis, President, Northern Sierra Construction, Mike Grashuis, Vice President, Northern Sierra Construction; Rich Collings, Underwriter, Western Insurance Company; Robert Orlando, Owner, Robert Vincent Orlando; Kim Stanton, Warranty Director, Rhodes Homes; Charles Shane Greenfield, Jr., Owner, Greenfield Roofing; Chas Richold, Technician, City of Las Vegas; Valerie Powers, Project Coordinator, PBS & J; John Munoz, Senior Landscape Architect, Nevada State Parks Division; Edward Chambers, Estimator, Color Coating; Lucky Miller, Owner, Lucky

Miller; Tim Stark, Representative, Myco; Marianna Jones, Complainant; Brian Ingram, Owner, and wife Leah Ingram, Sunset Designs Architectural Landscapes, and Sunset Designs Architectural Pools; Phil Van Alstyne, Legal Counsel representing Sunset Designs Architectural Landscapes; John Jones, Attorney representing Marianna Jones; Albert Robins, President, Sun Gold Development; Michael Clark, President, M Y S Drywall & Associates; Brian Terry, Legal Counsel, Falcon Homes, Inc.; Fred Ahlstrom, President, Falcon Homes, Inc.; Cal Potter, Legal Counsel for Russell Lewis, Complainant; Donald Michael Long, Owner, D M L Construction; Attorney Keith Gregory; W. T. Moreau, Owner, Electrical Services; Pam Stogner, Director of Construction and Purchasing, Remington Homes, LTD; Sue Saleta; George Nichols, R and G Sales; David Del Zotto, President, Remington Homes, LTD; Eric Russell, Complainant; Michael Toigo, Legal Counsel, Remington Homes, LTD; Steve Rosenberg, Representative, Progressive Plumbing; Daniel Berg, President, Vision Craft Homes Inc.; Attorneys Mike Mushkin and Teddy Parker, Vision Craft Homes Inc.

Ms. Grein stated that Chet Yekin had posted the agenda in compliance with the open meeting law on April 12, 2000, at the Sawyer State Building, Clark County Library, and Las Vegas City Hall. Additionally, the agenda had been posted in each office of the Board, Las Vegas and Reno, and on the Board's Internet web site.

It was learned there were 32 items on the amended agenda, each item of an emergency nature. Additionally, the regular agenda was amended to include an advisory opinion request from the Division of State Parks; Commercial Concrete had been continued by request; Ms. Grein requested a continuance of the Financial Report listed under Executive Session, to May 9, 2000; and information regarding application 100, Lucky Miller, was provided.

MS. SHELTRA MOVED TO HEAR THE AMENDED AGENDA.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Gregory called for a motion to approve the minutes of April 7, 2000.

MR. JOHNSON MOVED TO APPROVE THE MINUTES OF APRIL 7, 2000.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Jim Ball, Arizona Contractors Register, was introduced to the Board.

EXECUTIVE SESSION

The Executive Session was continued until later in the day.

APPLICATIONS

The following motion closed the meeting to the public.

MS. SHELTRA MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

DANNY ENCINIAS' FLY RIGHT PAINTING COMPANY (C4 – Painting & Decorating) NEW APPLICATION, RECONSIDERATION

The license application had been denied on March 21, 2000 for financial responsibility and character. No new financial information had been provided.

Danny Encinias, Owner, Danny Encinias' Fly Right Painting Company, was present.

Indemnification was explained to Mr. Encinias.

Mr. Encinias said he had additional funds, which he had recently placed into a new account. The new bank information had been received as of April 4, 2000. Additionally, Mr. Encinias provided the Board with paperwork regarding a previous conviction. He attributed the conviction to youth, but nonetheless he was now a registered sex offender.

Mr. Encinias explained the type of work he intended to perform, saying he anticipated his average job to be in the area of \$3,000.

MR. ZECH MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$25,000, A \$5,000 BOND, A FINANCIAL REVIEW UPON RENEWAL, AND A BID LETTER.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED. (MS. SHELTRA WAS OPPOSED)

The one time raise in limit process was explained to Mr. Encinias.

MIDWEST DRYWALL CO INC (C4 – Painting & Decorating) NEW APPLICATION, WAIVE EXAM

MIDWEST DRYWALL CO INC (C17 – Lathing & Plastering) NEW APPLICATION, WAIVE EXAM

MIDWEST DRYWALL CO INC (C14 – Steel Reinforcing & Erection) NEW APPLICATION, WAIVE EXAM

MIDWEST DRYWALL CO INC (C3 – Carpentry) NEW APPLICATION, WAIVE EXAM

MIDWEST DRYWALL CO INC (A22 – Designated to Perform Theme Work) NEW APPLICATION, WAIVE EXAM

Tom McBride, Vice President, Midwest Drywall Co. Inc., was present. Mr. McBride was notified that all license applications had been approved with unlimited license limits, \$50,000 bonds, and a waiver of exams.

ACE PLUMBING & MECHANICAL INC. (C1D – Plumbing) NEW APPLICATION

Jerry Klaizner, President, Ace Plumbing & Mechanical Inc., was present. Personal indemnification was explained to him.

The general consensus was to table the license application for indemnification. If the information was provided in a timely and completed manner, the application was to be placed on the next Las Vegas agenda.

ADVANCED CONCRETE CUTTING (C5 – Concrete Contracting) NEW APPLICATION

John Zell, Owner, Advanced Concrete Cutting, was present.

Mr. Zell had a California license, which was currently on inactive status. Mr. Zell said he had sold his company in California, and was in a current lawsuit for money owed to him.

Indemnification was explained to Mr. Zell.

The general consensus was to table the license application for 90 days for new financial information.

INTERIOR FINISHWORKS (C3C – Cabinets & Millwork) NEW APPLICATION

Michael Heckman, Partner, Interior Finishworks, was present. Mr. Heckman was notified the license application had been approved with a limit of \$60,000 and a \$10,000 bond.

PERFORMANCE METAL WORK LLC (C14C – Ornamental Metal) NEW APPLICATION

James and April Yacksyzn, Manager/Member, Performance Metal Work, were present.

Mrs. Yacksyzn said they were currently performing only manufacturing.

Personal Indemnification was explained to the Yacksyzns.

The general consensus was to table the license application for 90 days for new financial information.

GUTTER GUY (THE) (C13 – Using Sheet Metal) NEW APPLICATION, RECONSIDERATION

The license application had been denied on February 8, 2000 for lack of financial responsibility. New financial information had been provided.

Jason Davis, Owner, The Gutter Guy, was present. Mr. Davis was notified that the license application had been approved with a limit of \$4,000 and a \$1,000.

NORTHERN SIERRA CONSTRUCTION INC #34118A (B2 – Residential & Small Commercial) FINANCIAL REVIEW UPON RENEWAL**NORTHERN SIERRA CONSTRUCTION INC** #34118A (B2 – Residential & Small Commercial) RAISE IN LIMIT

David Grashuis, President, Northern Sierra Construction, and Mike Grashuis, Vice President, Northern Sierra Construction, were present. They were informed that the license renewal application had been approved, and future financial reviews waived.

Rich Collings, Underwriter, Western Insurance Company, spoke to the character of Mr. Grashuis. He said Mr. Grashuis' experience plus other items made him willing to bond Northern Sierra Construction Inc. from \$5 million to \$6 million.

Mr. Grashuis said the type of work he performed mostly was public works, which was bonded.

The one time raise in limit was explained to Mr. Grashuis.

MR. JOHNSON MOVED TO APPROVE THE RAISE IN LIMIT TO \$4 MILLION WITH A \$30,000 BOND.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**PEAUA BROTHERS CONSTRUCTION #49016 (B2 – Residential & Small Commercial)
RAISE IN LIMIT**

Sitelmani Peaua, Owner, Peaua Brothers Construction, was present. Mr. Peaua was notified the raise in limit had been approved for \$250,000 and a \$20,000 bond.

**ROBERT VINCENT ORLANDO (B2 – Residential & Small Commercial) NEW
APPLICATION, RECONSIDERATION**

Robert Orlando, Owner, Robert Vincent Orlando, was present.

The license application had been tabled on March 21, 2000 for a financial statement with full disclosures. New financial information had been provided.

Mr. Orlando said he performed remodel work.

Indemnification was explained to Mr. Orlando.

The general consensus was to table the license application for 90 days for new financial information.

**RHODES HOMES #28530 (B2 – Residential & Small Commercial) FINANCIAL REVIEW
UPON RENEWAL**

Kim Stanton, Warranty Director, Rhodes Homes, was present.

Mr. Stanton was informed the renewal application had been approved with a financial review upon renewal.

MUSAIRE #36814 (C2D – Amplifying Systems) 90-DAY EXTENSION

Barry Freedman, General Manager, Musaire, was present. Mr. Freedman was notified that the 90-day extension to replace the qualifier had been approved.

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 2-9, 11, 14, 16-17, 21, 30-31, 36, 43, 47-48, 53, 56, 59-61, 64, 75, 85, 92, 94-98, 101-103, 106, 113, 118, 121-123, 126-130, 135-140, and 143.

Review of the amended agenda was continued until later in the day.

MR. ZECH MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

INTERVIEW

GREENFIELD ROOFING #48005 - INTERVIEW

The matter regarded a financial review on renewal, which had been tabled on March 21, 2000 because Mr. Greenfield did not appear for his scheduled interview.

Charles Shane Greenfield, Jr., Owner, Greenfield Roofing, was present, and provided new financial information.

MR. JOHNSON MOVED TO APPROVE THE LICENSE RENEWAL APPLICATION.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ADVISORY OPINIONS

1. **CITY OF LAS VEGAS** - Scope of Work, A-10 License

Chas Richold, Technician, City of Las Vegas, was present for the advisory opinion.

The Board addressed each question addressed in the advisory opinion request represented in Recording Secretary's EXHIBIT C.

The general consensus was that an A10 contractor, when acting as the prime contractor on a pool project, could perform any work that was incidental and supplemental to the pool project only. It would be necessary to hire properly licensed subcontractors to perform the portions of work he was not licensed to perform.

Any electrical work must be done by a licensed C2 (electrical) contractor. A licensed C1 (plumbing) contractor must install any gas piping required.

It was also noted that pursuant to NRS 624.035, the City had the authority to establish more stringent licensing requirements as they deemed necessary for the protection of the public.

CITY OF NORTH LAS VEGAS - Licensing Requirements, Contract No. 1068 - Historical Preservation Project

Valerie Powers, Project Coordinator, PBS & J, was present for the advisory opinion.

The Board opined there were no special requirements for historical preservation projects, the scope of work for this project would fall within the category of an AB, B, or B2 license classification.

3. **NEVADA STATE PARK**

John Munoz, Senior Landscape Architect, Nevada State Park Division, and Edward Chambers, Estimator, Color Coating, were present for the advisory opinion.

The question raised was could a C4 (Painting and Decorating) contractor act as the prime contractor on the Spring Mountain Ranch State Park Stabilization Project, if the framing, roofing and light carpentry portion was subcontracted.

Mr. Gregory pointed out it was not the Board's role to decide bid disputes. It was the responsibility of the bidding entity to determine if there was an irregularity in the bid.

Mr. Chambers stated that Color Coating had listed a subcontractor to perform the carpentry work on their bid under the belief that the main scope of work was painting.

Mr. Gregory then clarified the question: Was the project a painting job with the rest of the work incidental to the project?

After some discussion, the Board opined that the work as represented could be

performed by an AB, B, B2, or possibly a C3 license holder.

APPLICATIONS (Continued)

The following motion closed the meeting to the public.

MR. ZECH MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

LUCKY L MILLER (B2 – Residential & Small Commercial) NEW APPLICATION, RECONSIDERATION

New financial information had been provided.

Lucky Miller, Owner, Lucky Miller, was present.

The license application had been denied on March 23, 1999 for failure to establish financial responsibility. A hearing was pending. The applicant was requesting reconsideration. The applicant had previously held 3 Nevada contractor licenses. All three had been revoked by Board action.

Mr. Zech commented that all the problems appeared to be tied to the bankruptcy, which had been discharged in 1998. It had been filed in 1992.

Mr. Bertuzzi clarified that the bankruptcy had been withdrawn in April 1992, but it had been re-filed again in 1998.

Mr. Miller was then questioned about the license revocations. Mr. Miller admitted to having an alcohol problem at the time, adding he just did not pay attention to what was going on regarding his licenses, which had been revoked by default. He said he had now been dry for 7 years.

Mr. Mathias detailed two judgments that had been discharged in the bankruptcy, which had been obtained by some of the complainants. One of the judgments was a result of substandard work and failure to comply with building codes.

Mr. Lyford referenced an old newspaper article detailing the arrest of Mr. Miller in Colorado. Mr. Miller explained what happened. He had been charged with money laundering, but when he went to court he was exonerated.

Mr. Lyford said he had requested records because he was not sure if the State or Federal authorities had arrested Mr. Miller. Mr. Miller admitted it had been both, again detailing what had occurred.

Tim Stark, Representative, Myco, spoke to Mr. Miller's character and qualifications. Mr. Miller had performed work for Myco as a Project Manager during the years of 1998 and 1999.

MS. SHELTRA MOVED TO TABLE THE LICENSE APPLICATION TO THE NEXT LAS VEGAS HEARING FOR THE FEDERAL AND STATE HISTORY.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY

Review of the amended agenda was postponed until later in the day.

MS. CAVIN MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

DISCIPLINARY HEARING

SUNSET DESIGNS ARCHITECTURAL LANDSCAPES #38591 - DISCIPLINARY HEARING (Continued from 1/25/2000)

SUNSET DESIGNS ARCHITECTURAL POOLS #46656 – DISCIPLINARY HEARING (Continued from 1/25/2000)

NSCB Investigator Greg Mincheff; Marianna Jones, Complainant; Brian Ingram, Owner, and wife Leah Ingram, Sunset Designs Architectural Landscapes, and Sunset Designs Architectural Pools, were sworn in. Phil Van Alstyne, Legal Counsel representing Sunset Designs Architectural Landscapes, was identified.

The notice of hearing and complaint, dated December 17, 1999 and consisting of pages 1-34, had been sent certified mail to the address of record. No return receipt had been received.

The notice of continued hearing, dated February 28, 2000, was sent certified mail. The return receipt was dated February 29, 2000.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which is not commensurate with standards of the trade in general or which is below the standards in the building or construction codes adopted by the city or county in which the work is performed; NRS 624.3015 (1), acting in the capacity of a contractor beyond the scope of the license; NRS 624.3015 (2), bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the board; and NRS 624.3013 (5), as set forth in NAC 624.700 (3) (a) and NAC 624.640 (5), failure in any material respect to comply with the provisions of this chapter or the regulations of the board by failing to comply with the order to correct, and each licensee shall include in all bids he submits or contracts he enters into for construction work within this state, the number of his license and monetary limit placed upon his license.

The notice of hearing was entered into the record as EXHIBIT 1.

Mr. Taylor stated the had been continued on January 25, 2000 for the purpose of the parties entering into mediation. Both licenses were active. The workmanship complaints related to a pool, and there was a failure to comply with the final notice to correct. There was also a question as to when the contracting had been performed in relationship to the issuance of the license, and issues of bidding in excess of limit and not putting the monetary limit on the license.

Group EXHIBIT 2, additional exhibits, was entered into the record.

The stipulation was not signed at this time.

Mr. Taylor questioned Marianna Jones and learned Ms. Jones had negotiated the contract in the fall of 1997, and had signed the contract with the Licensee on January 1, 1998. The total contract price was \$483,279, including extras. The pool had not been constructed until the summer of 1998. Once the pool was completed, problems began once the pool

was drained. There was leaching of ground water and algae growth. The pool had never been used. The pool had been completely removed and it was being replaced at Ms. Jones expense. She then detailed the various problems encountered with the pool, which led to the decision it could not be repaired and needed to be removed. All the information pertaining to the problems with the pool was contained in an engineering report Ms. Jones had acquired. Ms. Jones then detailed her attempts to resolve the pool issues with the Licensee. She said marginal attempts to repair the pool had been made, but nothing significant to address the magnitude of the pool problem.

Mr. Taylor presented a letter to Mr. Van Alstyne from Mr. Lynch dated July 15, 1999. At that time, My Lynch indicated that the Licensee would no longer be allowed to make repairs to the pool.

John Jones, Attorney, representing Marianna Jones, stated he had reviewed his file and the file of Ms. Jones and had encountered several letters commencing in June 1999 through December 1999, and February and March of 2000 for the availability for inspection and the availability for the Licensee's experts to come out to review the pool. The packet of letters was later entered into the record as Group EXHIBIT 4.

When asked how much money the Licensee had been paid, Ms. Jones said \$483,000 had been fully paid to the Licensee for complete exterior landscaping.

Discussion then focused on the City's recommendation to drain the pool. Two inspection reports were entered into the record as EXHIBIT 3.

Mr. Mincheff testified he had validated the complaint. Notices to correct had been sent on or about June 16, 1999, August 16, 1999, and November 30, 1999. The notices had not been complied with. Mr. Mincheff confirmed the permit had been pulled in April 1998 and the A10 pool license had been issued on June 2, 1998.

Ms. Jones testified the contract had been signed in January 1998.

Mr. Mincheff validated that, at the time the contract had been entered into, the monetary limit of the C10 license was \$100,000, and that the monetary limit had not been noted on the contract.

Mr. Van Alstyne questioned Mr. Mincheff as to the cooperativeness and willingness of the Licensee to abide by the board's requests. Mr. Mincheff testified that the Licensee had been very cooperative. Mr. Alstyne objected to the characterization of the letters contained in Group EXHIBIT 4, saying that they were irrelevant to the issues before the Board and pertained only to the civil lawsuit.

Mr. Haney clarified that the Licensee was offered access for the purpose of inspection but not for the purpose of repairs.

Mr. Alstyne then questioned Mr. Mincheff regarding the Licensee's willingness to make corrections as outlined in the notices to correct. Mr. Mincheff said they expressed a willingness to make corrections but they made no attempt to do so.

More discussion followed regarding the denial of access to the property after the correction notices had been issued, and the scope and limit of the license.

Mr. Ingram testified that he never gave any thought to the scope or limit of the license.

Mr. Alstyne said they were not present to deny those two charges. He then stipulated to the 3rd, 4th, and 5th causes of action, but contested the 1st and 2nd causes of action.

Mr. Gregory explained that the Board depended upon its Inspector to validate the charges. He did. The workmanship issues were valid.

Mr. Van Alstyne requested that various items of evidence be entered into the record. A letter dated June 11, 1999 was entered as EXHIBIT A; a letter dated April 30, 1999 was entered as EXHIBIT B; and an affidavit with attachments from August Nardoni, an Insurance Adjuster, regarding engineering fixes was entered as EXHIBIT C.

Mr. Van Alstyne stated that the Ingrams should not be penalized for failing to comply with the correction notices. He then provided letters from satisfied customers, which was entered in to the record as EXHIBIT D, and a letter from Prestige Gunitite stating they were willing to stand behind their warranty, was entered into the record as EXHIBIT E.

Mr. Haney questioned whose signature was on the permit reference on page 32 of the hearing notice. Mr. Ingram confirmed it was his signature.

After a short recess, the stipulation was signed, and the evidentiary was closed.

MR. ZECH MOVED TO FIND LICENSE #38591, SUNSET DESIGNS ARCHITECTURAL LANDSCAPE, AND LICENSE #46656, SUNSET DESIGNS ARCHITECTURAL POOLS, IN VIOLATION OF ALL CAUSES OF ACTION, WITH THE EXCEPTION OF NRS 624.3013 (5).

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED. (MR. CARSON ABSTAINED)

Penalty phase.

MR. ZECH MOVED TO IMPOSE AN ADMINISTRATIVE FINE OF \$1,000 ON THREE CAUSES OF ACTION, FOR A TOTAL OF \$3,000, TO BE PAID WITHIN 180 DAYS OR THE LICENSE WAS TO BE AUTOMATICALLY SUSPENDED; TO PLACE A PERMANENT LETTER OF REPRIMAND FOR FOUR CAUSES OF ACTION INTO THE FILE OF LICENSE # 38591, SUNSET DESIGNS ARCHITECTURAL LANDSCAPE, AND LICENSE #46656, SUNSET DESIGNS ARCHITECTURAL POOLS; AND TO RECOVER THE INVESTIGATIVE COSTS OF \$2,215.26, TO BE PAID WITHIN 60 DAYS OR THE LICENSE WOULD BE AUTOMATICALLY SUSPENDED.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED. (MR. CARSON ABSTAINED)

SUN GOLD DEVELOPMENT #34201, DENIAL OF RENEWAL & DISCIPLINARY HEARING (Continued from 10/26/99 and 1/25/00)

Albert Geoffrey Robins, President, Sun Gold Development, was present.

Mr. Taylor recapped the previous two hearings. He questioned if the financial statement had been submitted. It had not.

The status of the license was inactive, not renewed.

Mr. Gregory asked Mr. Robbins if he needed more time to resolve the debts. Mr. Taylor questioned the status of the 31 lots.

Mr. Robins stated there was a purchase agreement that was due to become effective on May 1, 2000. He said the proposal had to be approved by the court. He did not know when the court would act on it.

Mr. Taylor requested a copy of the purchase agreement. More discussion followed

regarding the settlement and the methodology for payment of the outstanding money owing complaints.

Michael Clark, President, M Y S Drywall & Associates, was questioned as to whether or not he had received any payments from Sun Gold Development. He said no.

Ms. Mathias noted that the renewal application was pending. This hearing was an extension of that pending application renewal.

MR. JOHNSON MOVED TO REQUEST AN INTERIM REPORT BY MR. ROBINS OR STAFF AT THE END OF MAY, BUT ONLY IF PROGRESS WAS MADE. THE REACTIVATION OF THE LICENSE WAS ON HOLD UNTIL SUCH PROGRESS WAS MADE.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION

CASH DISBURSEMENTS AND TRANSFER JOURNALS – March 31, 2000

MS. SHELTRA MOVED TO APPROVE BANK OF AMERICA COMMERCIAL CHECKING ACCOUNT CHECK #18963 THROUGH #19520;

BANK OF AMERICA MONEY MARKET ACCOUNT CHECK #1272 THROUGH #1275 AND TRANSFER #98-48 THROUGH #98-58; AND

WELLS FARGO BANK PAYROLL ACCOUNT CHECK #17602 THROUGH #18099.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

DEPARTMENT REPORTS – March 31, 2000

1. **LICENSING DEPARTMENT**

Ms. Mathias presented the Licensing Department Report, noting future goals.

2. **INVESTIGATIONS DEPARTMENT**

Mr. Bertuzzi presented the Investigations' Department Report

3. **SPECIAL INVESTIGATIONS DEPARTMENT**

Mr. Lyford presented the Special Investigations' Department Report.

DISCIPLINARY HEARING

FALCON HOMES, INC #37203 - DISCIPLINARY HEARING (Continued from 1/11/00 and 2/23/00)

Brian Terry, Legal Counsel, Falcon Homes, Inc. was present with Fred Ahlstrom, President, Falcon Homes, Inc. Also present was Cal Potter, Legal Counsel for Russell Lewis, Complainant, and Tom Tucker, NSCB Investigator.

Mr. Taylor stated that it was his understanding there had been resolution to both matters.

Mr. Terry agreed the underlying issues had been resolved, which was confirmed by Mr. Potter as to the Lewis matter.

The evidentiary was closed.

MR. ZECH MOVED TO DISMISS THE CHARGES.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED. (MS. SHELTRA WAS OPPOSED)

D M L CONSTRUCTION #33597 - DISCIPLINARY HEARING (Continued from 11/23/99, 1/11/00, 2/23/00, and 3/21/00)

Donald Michael Long, Owner, D M L Construction, and Attorney Keith Gregory were present, as well as NSCB Investigator Bob Macke.

Mr. Taylor recapped what had occurred in the last hearings, noting there was no further evidence that there was any involvement of D M L Construction in the complaints that had been filed with the board office.

Warranty issues were discussed, and it was noted that some of the homeowners were concerned that if the subcontractors were allowed to come back into their homes to make repairs, it would extend the time period to file liens. Mr. Haney clarified that if it was a warranty issued, it did not extend their time. But if they were doing something new or different, it could. That needed to be watched closely.

Mr. Macke confirmed the work was warranty work, detailing the position of several homeowners on the issue.

Attorney Gregory presented documentation for the record. EXHIBIT AA and EXHIBIT BB was entered into the record. Both pertained to an audit of D M L by Farmer and Thomkins, CPA. Thereafter, discussion focused on the previous evidence.

The stipulation was signed, and the evidentiary was closed.

MR. JOHNSON MOVED TO FIND LICENSE #33597, D M L CONSTRUCTION, IN VIOLATION OF NRS 624.3014, AND TO DISMISS THE REMAINING CHARGES.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO PLACE A ONE YEAR LETTER OF REPRIMAND INTO THE FILE OF LICENSE #33597, D M L CONSTRUCTION, AND TO IMPOSE A FINE OF \$1,000, TO BE PAID WITHIN 60 DAYS OR THE LICENSE WOULD BE AUTOMATICALLY SUSPENDED.

MS. SHELTRA SECONDED THE MOTION.

In discussion of the motion, Mr. Carson objected to the lightness of the penalty.

THE MOTION DID NOT CARRY.

MR. CARSON MOVED TO PLACE A 2 YEAR LETTER OF REPRIMAND INTO THE FILE OF LICENSE #33597, D M L CONSTRUCTION, AND TO IMPOSE A FINE OF \$5,000, TO BE PAID WITHIN 60 DAYS OR THE LICENSE WOULD BE AUTOMATICALLY SUSPENDED.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED. (MR. JOHNSON WAS OPPOSED)

Mr. Haney left the meeting at 1:40 p.m. Mr. Griffy assumed his seat.

APPLICATIONS (Continued)

The following motion closed the meeting to the public.

MS. CAVIN MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

The remainder of the applications on the amended agenda was reviewed and discussion occurred on the following: Nos. 2, 3, 6, 8, 11, 14, 17-18, 20, 24-26, and 32.

MR. ZECH MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO APPROVE ALL APPLICATIONS NOT SPECIFICALLY DISCUSSED IN CLOSED SESSION PER STAFF RECOMMENDATION.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

DISCIPLINARY HEARINGS

ELECTRICAL SERVICES #28687 - DISCIPLINARY HEARING

ELECTRICAL SERVICES #45332 - DISCIPLINARY HEARING

W. T. Moreau, Owner, Electrical Services, was sworn in.

The notice of hearing and complaint, dated March 6, 2000 and consisting of pages 1-31, had been sent certified mail. The return receipt was dated March 16, 2000.

The amended complaint, dated March 30, 2000 and consisting of pages 1-27, had been sent certified mail. The return receipt was dated April 4, 2000.

The hearing was for possible violation of NRS 624.3016 (1), any fraudulent or deceitful act committed in the capacity of a contractor; NRS 624.3013 (2), misrepresentation of a material fact by an applicant or licensee in connection with any information or evidence furnished the board in connection with official matters of the board, NRS 624.3013 (3), failure to establish financial responsibility as set forth in NRS 624.220 and 624.260 to 624.265, inclusive, at the time of renewal of the license or at any other time when required by the board, and NRS 624.3014 (2) (d), with the intent to evade the provisions of this chapter by acting as agent, partner or associate of an unlicensed person.

The notice of hearing was entered into the record as EXHIBIT 1.

For the record, Mr. Gregory clarified there were two licenses before the Board. License #28687 and #45332.

The current status of license #28687 was suspended for no bond, and #45332 was inactive, not renewed.

Mr. Taylor stated the complaint originated as a money owing complaint. Capital Wholesale Lighting & Electrical Supply, who was currently out of business, had initiated it. An administrative meeting had been held with one Isaac Hagai in attendance with Mr. Moreau, who represented himself as being Mr. Moreau's partner. Subsequently, it was learned Mr. Hagai was also associated with I C Contractors Inc, and it was he who stated that Electrical Services had not paid the Capital bill because Electrical Services had not been paid by the general contractor, I. C. Contractors Inc. The owner of I C Contractors was also the owner of the project on which the work was done, and he indicated the payments had been made on the electrical work. Mr. Taylor then referenced checks, some of which were made out to Mr. Hagai and some to Electrical Services.

NSCB Investigator Ron Ramsey was sworn in. He testified that Capital Wholesale Lighting had never been paid the entire amount owed to them, and the Respondent later went through a Chapter 7 bankruptcy, discharging the debt. Mr. Ramsey next confirmed that both Mr. Moreau and Mr. Hagai were present for the administrative meeting. It was then that Mr. Hagai informed Mr. Ramsey he was a partner in Electrical Services although he was not listed on the license. Mr. Ramsey said he was informed that the general contractor in charge of the construction project had not paid the subcontractor, which was Electrical Services. It was only later that Mr. Ramsey learned of the association between Mr. Hagai and I C Contractors, detailing how he had learned that information. Mr. Hagai, by answering a phone call, had told the representative of Capital Wholesale he was one of the owners of I C Contractors. Subsequently, Mr. Ramsey had received correspondence from David Levy, President, I C Contractors, indicating that payment had been made in full on this particular project.

As a result of the foregoing, a request for financial documents to establish financial responsibility had been made, but no information had been forthcoming.

Mr. Moreau testified, using a letter he had provided to the Board. Mr. Moreau asked to delete one portion of his testimony, which was the part that said 'Isaac Hagai and his partners at I C Contractors'. He stated he did not know if they were partners or not. He did not think that I C Contractors knew anything was wrong or that anything was going on. He never saw the checks that had been written to Isaac Hagai in the approximate amount of \$11,000. He did not know how many others had come up short or had been fraudulently written to Mr. Hagai instead of Electrical Services. Prior to filing bankruptcy, his attorney had advised him to remove all the information from his office, but he had been unable to remove the computer that had all the payroll and contract information. He then detailed what had occurred since that time, and explained why he had not been able to provide the Board with a financial statement. In further questioning, Mr. Moreau admitted to not keeping on top of the business, adding that the license was a sole proprietorship. Mr. Moreau had only become a business partner with Mr. Hagai. He had never changed the license.

After Mr. Moreau's testimony was taken, and the stipulation was signed.

Mr. Gregory requested the record to reflect that there may be possible fraud from an outside business relationship.

The evidentiary was closed.

MR. ZECH MOVED TO FIND LICENSE #28687, ELECTRICAL SERVICES, IN VIOLATION OF THE 3RD CAUSE OF ACTION, NRS 624.3013, AND TO DISMISS THE REMAINING CHARGES.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase.

MR. CARSON MOVED TO NOTE ON THE LICENSES THAT THEY WERE TO REMAIN SUSPENDED UNTIL FULL RESTITUTION OF THE INVESTIGATIVE COSTS OF \$2,474.60 WAS MADE TO THE BOARD, AND FINANCIAL INFORMATION WAS TO BE SUBMITTED TO THE BOARD PRIOR TO ANY CONSIDERATION OF REINSTATEMENT.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

RONALD E. TAYLOR #40469 - DISCIPLINARY HEARING

Ronald E. Taylor, Owner, Ronald E. Taylor, was not present. Neither was legal counsel or anyone else present to represent the Licensee.

The notice of hearing and complaint, dated March 6, 2000 and consisting of pages 1-32, had been sent certified mail and regular U. S. Mail. The return receipt had not been received.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was performed, and NRS 624.3013 (5), as set forth in NRS 624.700 (3) (a), failure in any material respect to comply with the provisions of this chapter or the regulations of the board by failing to comply with the notice to correct.

The notice of hearing was entered into the record as EXHIBIT 1.

The current status of the license was suspended for no bond.

NSCB Investigator Greg Mincheff was sworn in. He testified he had validated the vertical cracking running the entire length of each stud along the perimeter of Beatrice Olsen's residence, with numerous hairline spider cracks running throughout the entire stucco application connecting each stud. Notices to correct, along with a final notice to correct, had been sent to the Licensee, but the Licensee did not reply. Mr. Mincheff said he had heard the Licensee was currently out of the state.

Mr. Mincheff was asked to follow-up on the matter to determine if a construction control company had been involved, and if subcontractors had performed the work.

The evidentiary was closed.

MR. JOHNSON MOVED TO ACCEPT THE FILE AND TESTIMONY AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO FIND LICENSE #40469, RONALD E. TAYLOR, IN VIOLATION OF ALL CHARGES.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase.

MR. JOHNSON MOVED TO REVOKE LICENSE #40469, RONALD E. TAYLOR, TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES, AND TO RECOVER THE INVESTIGATIVE COST OF \$1,820.75 PRIOR TO ANY CONSIDERATION OF FUTURE LICENSURE IN THE STATE OF NEVADA.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

REMINGTON HOMES, LTD #35380 - DISCIPLINARY HEARING

Pam Stogner, Director of Construction and Purchasing, Remington Homes, LTD; Sue Saleta; George Nichols, R and G Sales; David Del Zotto, President, Remington Homes; Eric Russell, Complainant; Steve Rosenberg, Representative, Progressive Plumbing; and NSCB Investigators Tom Tucker and Bob Macke, were sworn in.

Michael Toigo, Counsel for Remington Homes, was identified.

The notice of hearing and complaint, dated February 3, 2000 and consisting of pages 1-24, had been sent certified mail. The return receipt was dated February 8, 2000.

The notice of continued hearing, dated March 3, 2000, had been sent certified mail. The return receipt was dated March 7, 2000.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was performed; and NRS 624.3013 (5), as set forth in NAC 624.700 (3) (a), failure in any material respect to comply with the provisions of this chapter or the regulations of the board by failing to comply with the order to correct.

The notice of hearing was entered into the record as EXHIBIT 1.

Mr. Taylor stated there were two workmanship issues. One regarded a door, which was damaged, and the other regarded the installation of a bathtub, and allegations regarding compliance to the notices to correct.

The stipulation was signed.

Mr. Tucker testified he had performed the investigation on the Dvorak matter, whose home had been constructed by the Licensee. Mr. Tucker said he did not find any indication that the door had been blown open or that it had been slammed into the wall. He said the door had probably been ripped either when it was leaned against a wall and someone ran into it, or when it came off the truck at delivery.

Mr. Toigo questioned Mr. Tucker further regarding the door.

Mr. Tucker confirmed that notices to correct had been sent out in regards to the door. There had been no response to the order to correct or to the final notice to correct.

Mr. Russell testified that he had entered into a contract with the Licensee for the purchase of a residence. The total contract amount was \$224,000. Mr. Russell stated the bathtub in the master bathroom was not installed according to the manufacturer's specifications. He thereafter detailed the problems that had since been made manifest, and the attempts the Licensee had made to repair the item.

Mr. Toigo questioned Mr. Russell as to the methodology the manufacturer was suggesting to correct the problem. Mr. Russell said he had not been notified of that solution.

Mr. Macke testified he had reviewed the matter and said it had been caused by an over flexing of the bathtub due to a lack of support. He confirmed that notices to correct, as well as a final notice to correct had been issued. To date, no corrections had been performed.

Mr. Toigo questioned Mr. Macke regarding the correction notices, and the notification from Lasko, the manufacturer.

Mr. Bertuzzi was sworn in. He testified to the bathtub issue, explaining why it had been removed from the notice to correct, and then, later, added back in.

Mr. Toigo then questioned Mr. Bertuzzi.

When asked if they had been denied access to the property, Ms. Stogner replied yes. Discussion then focused on fixing the two problems.

Mr. Gregory pointed out that complete access was required in order to correct the problems. If reasonable access was denied, the Board needed to be made aware of it. In order to facilitate access, staff was to coordinate entry into the homes to allow for the repairs to be made. This offer was acceptable to all parties.

The matter was tabled for 30 days. Progressive Plumbing, the subcontractor who installed the bathtub, was present at the hearing. When Mr. Rosenberg was asked if the problem could be corrected on a Saturday, he stated what the company's customer service hours were. Mr. Gregory strongly urged Progressive Plumbing to make the correction on a Saturday, if necessary, and Mr. Johnson strongly urged Remington Homes to replace the door.

VISION CRAFT HOMES INC. #45953 - DISCIPLINARY HEARING (Continued from 10/26/99, 12/21/99, 2/23/00 and 3/7/00)

Daniel Berg, President, Vision Craft Homes Inc., was present, along with Attorney Mike Mushkin, and Attorney Teddy Parker.

Mr. Griffy recapped what had occurred in the last hearing.

Mr. Mincheff then provided the Board with an update. He said some of the issues had been resolved, but in the process, some issues had been created. There were some minor issues remaining with the cabinetry. The banisters or safety rails in the Banich residence were to be completed this week. No other work had been performed in the Banich residence. T & R Painting and Production Plumbing had performed an on-site visit, and he was awaiting their proposal as to the remedy.

Mr. Griffy explained that Production Plumbing had a C21D license. He then entered the Certificate of Custodian of Records into the record as EXHIBIT 20. It was determined Production Plumbing was not licensed to perform the metal roof work.

More discussion focused on the amount of items remaining to be corrected. Mr. Mincheff said there was approximately 29 open items still on list.

After more dialogue regarding the problem, Mr. Gregory suggested that staff bring in all the

parties, including attorneys, to resolve the issues. He asked for a staff report in 2 weeks. Mr. Mincheff said it would take 4 to 6 weeks to get the roof done. Mr. Griffy and/or Mr. Taylor was to be made available to act as referee.

For the record, Ms. Sheltra said the roofer had been referred to as a full C21 license holder. He was not.

Mr. Gregory suggested continuing the hearing for 30 days, with the Board's attorney to provide the Board with an update in two weeks, and a consolidated list of the remaining outstanding items.

Ms. Sheltra requested that Mr. Mincheff also be involved in the discussions.

MR. CARSON MOVED TO CONTINUE THE HEARING FOR 30 DAYS WITH AN UPDATE FROM BOARD COUNSEL IN 2 WEEKS. MR. MINCHEFF WAS TO CONSOLIDATE THE LIST OF CORRECTION ITEMS AND PROVIDE THE LIST TO THE CONTRACTOR, WHO WOULD THEN DETERMINE HOW LONG IT WOULD TAKE TO CORRECT THE ITEMS.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

PUBLIC COMMENT

No one from the general public was present to speak for or against any items on the agenda.

There being no further business to come before the Board, the meeting was adjourned by Chairman Gregory at 3:50 p.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman