

KENNY C. GUINN
Governor

STATE OF NEVADA



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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 DECEMBER 17, 2002

1. A. CALL TO ORDER

Chairman Michael Zech called the meeting of the State Contractors' Board to order at 8:35 a.m., Tuesday, December 17, 2002, 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 – left at 11:40 a.m.
Mr. Douglas W. Carson – arrived at 8:37 a.m.
Ms. Margaret Cavin – attended in Reno via Video Conference
Mr. David Clark
Mr. Spiridon G. Filios
Mr. Jerry Higgins – attended in Reno via Video Conference
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. David Reese, Legal Counsel (Cooke, Roberts & Reese)

Ms. Grein stated that Greg Welch had posted the agenda in compliance with the open meeting law on December 11, 2002, 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.

B. UNFINISHED BUSINESS:

Ms. Grein asked the Board if they would be agreeable to a joint meeting with the California Contractors Board in the spring. The Board informed Ms. Grein that they were agreeable and to set a date.

DEPARTMENT REPORTS, INCLUDING:

COMPLIANCE INVESTIGATIONS UNIT:

Mr. Chris Denning, Deputy Director of Investigations, presented the aging report for Las Vegas Compliance Division.

LICENSING DIVISION:

Ms. Pat Potter, Licensing Supervisor, presented the aging report for the Las Vegas Licensing Department.

2. STAFF UPDATE

DENNETT BROTHERS CONSTRUCTION, LICENSE #11862
DENNETT BROTHERS INC., LICENSE #17237
EMERALD DEVELOPMENT INCORPORATED, LICENSE NOS. 24195 AND 24286

Investigator Greg Welch informed the Board that Mr. David Winterton, attorney for Dennett Brothers Inc., had not returned any of his messages; however, when he had last spoken with Mr. Winterton, he had been told that the Board would be put on the mailing list to receive updates on this matter, which had not happened.

Mr. Donald Dennett, President of Dennett Brothers Inc., stated that Mr. Winterton was in the process of filing all the required documents with the court.

Chairman Zech requested that the Board receive an update at the January 7, 2003 Reno Board meeting.

3. ADVISORY OPINION:

A. ANKER MECHANICAL CONTRACTORS – Would the installation of sanitary stainless steel tubing for food processing facilities require a Nevada contractors license?

Based upon the information provided, the Board opined that the installation of sanitary stainless steel tubing for food processing facilities would require either a C-1 (Plumbing and Heating) or an A-20 (Industrial Piping) license classification.

B. MODERNFOLD OF NEVADA – Would the installation of track and pre-assembled tempered glass folding partitions fall within the scope of the license classification presently held by Modernfold of Nevada LLC?

Based upon the information provided, the Board opined that the installation of track and pre-assembled tempered glass folding partitions would fall within the scope of the C-26 (b) (Building Accessories and Specialties) license classification currently held by Modernfold of Nevada LLC.

4. DISCIPLINARY HEARING:

DAYSIDE, INC., LICENSE #46270

Mr. Gary Day, President of Dayside, Inc.; Licensing Analyst Mary Ann Enbody; and Investigative Supervisor Ron Ramsey were sworn in. Mr. Chris McCullough, counsel for Dayside Inc. was present.

The hearing was for possible violation of NRS 624.3013(3).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

The meeting was closed to the public in accordance with NRS 241.033 to discuss financial matters.

Investigator Ramsey testified that a financial statement was requested January of 2002 and was received on March 15, 2002 and it was requested again August 21, 2002 and was received September 26, 2002.

Ms. Enbody testified that neither financial statement supported the license limit.

Mr. McCullough stated that Mr. Day personally indemnified the license.

Mr. Day provided the Board with a current personal financial statement.

The meeting was reopened to the public.

MR. CLARK MOVED TO DISMISS ALL CHARGES AGAINST DAYSIDE INC., LICENSE #46270.

MR. FILIOS SECONDED THE MOTION.

THE MOTION CARRIED.

5. DISCIPLINARY HEARING:

METROLAND BUILDERS, LICENSE #46698 (CONTINUED FROM NOVEMBER 22, 2002)

Mr. Pablo Andres, Owner of Metroland Builders; Mr. & Mrs. Howard Leonard, Homeowners; Ms. Mireya Torres; Mr. Thom Cooley, Inspection Supervisor for the City of Las Vegas; Licensing Analyst Mary Ann Enbody; and Investigator Jim Ables were sworn in. Ms. Joey Nelson and Mr. Ken Campbell, counsel for Metroland Builders, were present.

The hearing was for possible violation of NRS 624.3017(1); NRS 624.700(3); NRS 624.3013(3); NRS 624.302(6); NRS 624.3013(6), as set forth in NRS 624.600(1a,b)(2)(3a,b); NRS 624.3016(1); NRS 624.3014(2)(b); NRS 624.3011(1)(b)(4); NRS 624.3015(1); NRS 624.301(4); NRS 624.3013(5), as set forth in NRS 624.520(1); NRS 624.3013(5), as set forth in NAC 624.640(5); NRS 624.301(5); and NRS 624.3011(1)(b)(1).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

Investigator Ables testified that Amy Viloría had entered into a contract with Respondent for the remodeling of her residence for a total contract price of \$12,000.00; however, change orders raised the contract price to \$13,500.00. Investigator Ables testified that he validated the workmanship issues and issued a Notice to Correct to which Respondent has not complied. Investigator Ables stated that he had last visited the Viloría residence October 29, 2002. A financial statement had been requested March 14, 2002, but was not received until November 15, 2002.

The meeting was closed to the public in accordance with NRS 241.033 to discuss financial matters.

Ms. Enbody testified that the financial statement did not support the license limit.

The meeting was reopened to the public.

Ms. Broussard informed the Board that subpoenas had been issued in accordance with Respondent's request, but due to the change in time some of the witnesses could not be here. Ms. Nelson provided the Board with signed affidavits from the witnesses who could not attend the Board hearing.

Investigator Ables testified that a subpoena had been issued to Respondent to provide contracts, proposals, change orders, addenda, approved plans, drawings, specifications, payment schedules, permits, inspection history, pre-lien notices, subcontractor lists, material supplier list for the Salo-Salo Restaurant and the Viloría remodeling project and to date Respondent has not complied. Investigator Ables further testified that Respondent failed to provide Ms. Viloría with a Notice to Owner, requiring disclosures regarding subcontractors and mechanic's liens. Investigator Ables stated that in an advertisement, Respondent states that he is a licensed engineer, however, Respondent is not registered in the State of Nevada as a Professional Engineer.

Mr. Leonard testified that he had contracted with Respondent for the installation of steel building adjacent to his residence for a total contract price of \$30,400.00, of which Respondent was paid a deposit of \$3,000.00. Mr. Leonard stated that to date the project has not been started and his deposit has not been returned.

Investigator Ables testified that the erection of the steel building was outside the scope of Respondent's B-2 license. Investigator Ables further testified that the Lim, Torres, Viloría and Leonard's contracts did not contain Respondent's license limit.

Ms. Torres testified that she contracted with Respondent for tenant improvements at her place of business for a total contract price of \$71,500.00, of which \$25,500.00 has been paid. Ms. Torres stated that the walls had been demolished but no other interior work had been done and there were no approved plans. Ms. Torres further testified that Respondent had been told that no further work was to be done until she received a copy of the plans approved by the planning division of the City of Las Vegas.

Mr. Cooley testified that he had investigated Ms. Torres tenement improvement project, at the request of his supervisor, who had contacted Investigator Ables and set up a meeting at the job site on December 13, 2002. Mr. Cooley further testified that the plans that were submitted had not been approved and Respondent had removed the plans from the office.

Investigator Ables testified that Respondent began work on the Torres project without obtaining a building permit. Investigator Ables further testified that Respondent did take corrective action on the Viloría project, but they were not to industry standards.

Mr. Andres testified that he is not a licensed engineer in the State of Nevada. Mr. Andres testified that Ms. Viloría hired him to repair the work left by previous contractors and upon completion of the project he felt Ms. Viloría was satisfied with the work. Mr. Andres stated that Mr. Konopelko was paid an advisory fee on the Torres project and not for performing plumbing work. Mr. Andres testified that he did occasionally require help on projects, which he hired and paid in cash. On the Leonard project, Mr. Andres testified that when he submitted the plans to the zoning department he was told that he could not erect a steel building at this location, but has not refunded the Leonard's their \$3,000.00 deposit. Regarding the Torres project, Mr. Andres stated that Ms. Torres had locked him out and he could not complete the project.

Ms. Nelson stated that the circumstances make it look like Mr. Andres has not been complying with the requests from the Board, but she feels Mr. Andres has shown that he has complied.

The evidentiary portion of the hearing was closed.

MR. SCHAEFER MOVED TO DISMISS THE 7TH AND 9TH CAUSES OF ACTION.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO CONTINUE THE 13TH AND 14TH CAUSES OF ACTION AND TO FIND METROLAND BUILDERS, LICENSE #46698, IN VIOLATION OF ALL OTHER CAUSES OF ACTION.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO REVOKE LICENSE #46698, METROLAND BUILDERS; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND TO REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$4,368.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

MR. FILIOS SECONDED THE MOTION.

THE MOTION CARRIED.

6. DISCIPLINARY HEARING – DEFAULT ORDERS:

A. MON ARC CONSTRUCTION, LICENSE #52839

No one from Mon Arc Construction was present.

The hearing was for possible violation of NRS 624.301(1); NRS 624.3015(1); NRS 624.3011(1)(b)(1); NRS 624.3017(1); NRS 624.3013(5), as set forth in NAC 624.700(3)(a); NRS 624.302(6); NRS 624.3013(3); NRS 624.3013(5), as set forth in NAC 624.640(5); NRS 624.3016(8); and NRS 624.3013(5), as set forth in NRS 624.520(1).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

MR. FILIOS MOVED THAT THE BOARD FIND THE RESPONDENT IN DEFAULT AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS SET FORTH IN THE ADMINISTRATIVE COMPLAINT; REVOKE LICENSE #52839, MON ARC CONSTRUCTION; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND RECOVER THE INVESTIGATIVE COSTS OF \$1,572.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

B. TODD LEMLEY CONSTRUCTION, LICENSE #50646

A request for a hearing was received and granted.

C. MORENO ELECTRIC, LICENSE #46505

A request for a hearing was received and granted.

D. BARRIER ENTERPRISES OF NEVADA, INC., LICENSE NOS. 52096 AND 52276

No one from Barrier Enterprises of Nevada, Inc. was present.

The hearing was for possible violation of NRS 624.3012(2); NRS 624.3013(3); NRS 624.3013(4); and NRS 624.3013(5), as set forth in NAC 624.640(3).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

MR. FILIOS MOVED THAT THE BOARD FIND THE RESPONDENT IN DEFAULT AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS SET FORTH IN THE ADMINISTRATIVE COMPLAINT; REVOKE LICENSE NOS. 52096 AND 52276, BARRIER ENTERPRISES OF NEVADA, INC.; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND RECOVER THE INVESTIGATIVE COSTS OF \$1,259.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

E. J. S. LANDSCAPE, LICENSE #33864

No one from J. S. Landscape was present.

The hearing was for possible violation of NRS 624.3012(2); NRS 624.3013(3); NRS 624.302(5); NRS 624.3013(5), as set forth in NAC 624.640(3).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

MR. FILIOS MOVED THAT THE BOARD FIND THE RESPONDENT IN DEFAULT AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS SET FORTH IN THE ADMINISTRATIVE COMPLAINT; REVOKE LICENSE #33864, J. S. LANDSCAPE; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND RECOVER THE INVESTIGATIVE COSTS OF \$1,108.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

F. TROPIC ISLE POOLS, LICENSE #37505

No one from Tropic Isle Pools was present.

The hearing was for possible violation of NRS 624.3013(5), as set forth in NAC 624.640(5); NRS 624.302(6); NRS 624.3013(3); NRS 624.3013(5), as set forth in NRS 624.600(1a,b)(2)(3a,b); and NRS 624.3013(5), as set forth in NRS 624.520(1).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

MR. FILIOS MOVED THAT THE BOARD FIND THE RESPONDENT IN DEFAULT AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS SET FORTH IN THE ADMINISTRATIVE COMPLAINT; REVOKE LICENSE #37505, TROPIC ISLE POOLS; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND RECOVER THE INVESTIGATIVE COSTS OF \$1,761.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

7. PUBLIC COMMENT

Mr. Robert Portnoff informed the Board that Mr. Hayward, Owner of Tropic Isle Pools, did not renew his license and has started a pool consulting business. Mr. Portnoff turned in his request to receive a faxed copy of the Board's agendas to George Lyford.

Mr. Carson and Mr. Filios informed Mr. Portnoff that they did not want to receive any more telephone calls from him on their cell phones.

8. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Vice Chairman Doug Carson at 12:00 p.m.

ADJUDICATING BOARD MEMBER: RANDY SCHAEFER

9. DISCIPLINARY HEARING:

SERENE LANDSCAPE & IRRIGATION, LICENSE #46351

Mr. Rhett Rasmussen, President of Serene Landscape & Irrigation and Investigator Bob Macke were sworn in.

The hearing was for possible violation of NRS 624.3013(3) and NRS 624.3013(4).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

Investigator Macke testified that Respondent entered into an agreement with Turf Equipment Supply Co. to purchase material on credit. Respondent's bond company has paid Turf Equipment Supply Co. the balance owed. Investigator Macke stated that Respondent has filed Chapter 7 bankruptcy. Investigator Macke further testified that a requested financial statement was not provided by Respondent.

A letter from Turf Equipment Supply Co. stating Respondent's bond company paid them was entered into the record as Exhibit #2.

Mr. Rasmussen provided the Board with a financial statement dated December 12, 2002.

The meeting was closed to the public in accordance with NRS 241.033 to discuss financial matters.

Ms. Mathias provided comments concerning the financial statement.

Investigator Macke stated that Turf Equipment Supply Co. was listed as a creditor in Respondent's bankruptcy.

Mr. Rasmussen testified that he has been unable to pay his creditors since the events of September 11, 2001 adversely effected his business.

The meeting was reopened to the public.

Mr. Rasmussen stated that he would be willing to surrender his license.

The evidentiary portion of the meeting was closed.

MR. SCHAEFER FOUND TO ACCEPT THE SURRENDER OF LICENSE #46351, SERENE LANDSCAPE & IRRIGATION; AND FOR RESPONDENT TO REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$1,317.00 PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

10. DISCIPLINARY HEARING:

CARPET WAREHOUSE & TILE, INC. LICENSE #45276

Mr. Ronald Cicerone, President of Carpet Warehouse & Tile, Inc.; Mr. Keivan Khorshid, Homeowner; Ms. Diane Metzler; and Investigator Troy Beaver were sworn in. Mr. Jack Juan, Esq., counsel for Mr. Khorshid and Mr. Richard Peel, Esq. and Mr. Will Geddes, counsel for Carpet Warehouse & Tile, were present.

The hearing was for possible violation of NRS 624.3017(1); NRS 624.3013(5), as set forth in NAC 624.700(3)(a); NRS 624.3013(5), as set forth in NAC 624.640(5); and NRS 624.3015(1).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

Mr. Khorshid testified that he contracted with Respondent for the purchase and installation of carpet and wood and marble flooring for a contract price of \$56,722.00, which has been paid in full. Mr. Khorshid further testified that the marble flooring is scratched and uneven. Despite numerous requests, Respondent has not sent anyone to finish the floors. Mr. Khorshid stated that he would allow a licensed contractor in to finish the flooring.

Investigator Beaver testified that he investigated the workmanship issues and issued a Notice to Correct, to which Respondent has not complied. Investigator Beaver further testified that Respondent failed to include his license number or monetary limit on the contract. Investigator Beaver testified that Respondent worked outside the scope of his C-16 license when he installed the marble flooring.

Mr. Peel and Mr. Juan agreed to resolve this matter.

MR. SCHAEFER FOUND TO CONTINUE THIS MATTER; FOR ATTORNEYS TO COORDINATE WITH BOARD INVESTIGATOR FOR RESOLUTION OF THIS MATTER; AND FOR A STAFF UPDATE AT THE JANUARY 7, 2003 RENO BOARD MEETING.

11. DISCIPLINARY HEARING:

EQUITABLE DEVELOPMENT CORP., LICENSE #50210 (CONTINUED FROM NOVEMBER 20, 2002)

Mr. Salim Rana, President of Equitable Development Corp., was present and stated that he wished to withdraw his answer.

The hearing was for possible violation of NRS 624.3012(2); NRS 624.3012(2); NRS 624.3013(3); and NRS 624.3013(4).

The Notice of Hearing and Complaint was entered into the record as Exhibit #1.

THE RESPONDENT WAS FOUND IN DEFAULT AND THE FINDINGS OF FACT AND CONCLUSIONS OF LAW WERE ADOPTED AS SET FORTH IN THE ADMINISTRATIVE COMPLAINT; LICENSE #50210, EQUITABLE DEVELOPMENT CORP. WAS REVOKED WITH AN ORDER TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND RECOVER THE INVESTIGATIVE COSTS OF \$1,679.00 PLUS ANY EXPENSES THAT MAY BE PAID OUT OF THE RECOVERY FUND PRIOR TO CONSIDERATION OF FUTURE LICENSURE.

There being no further business to come before the Board, the meeting was adjourned by Adjudicating Board Member Randy Schaefer at 12:56 p.m.

Respectfully Submitted,

Melinda Mertz, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Michael Zech, Chairman