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STATE CONTRACTORS BOARD

MINUTES OF THE MEETING February 23, 2005

MEMBERS
RANDALL SCHAEFER
Chairman
MARGARET CAVIN
Vice Chair
DAVID W. CLARK
SPIRIDON FILIOS
JERRY HIGGINS
J. BRIAN SCROGGINS
MICHAEL ZECH

1. CALL TO ORDER:

Hearing Officer Spiridon Filios called the meeting of the State Contractors Board to order at 8:30 a.m. Wednesday, February 23, 2005, State Contractors Board, Henderson and Reno, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Spiridon G. Filios
Mr. Jerry Higgins

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. George Lyford, Director of Investigations
Mr. Chris Denning, Deputy Director of Investigations
Mr. Daniel Hammack, Chief of Enforcement

LEGAL COUNSEL PRESENT:

Mr. Bruce Robb, Esq., Legal Counsel
Ms. Laura Browning, Esq., Legal Counsel

ADJUDICATING BOARD MEMBER: SPIRIDON FILIOS

2. ORDER TO SHOW CAUSE:

D T DEVELOPMENT, INC., LICENSE NO. 54504

Licensee was present with Counsel Kurt Faux, Esq. and William Parsons, Esq.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

The following Respondent Exhibits were entered:

Exhibit A – Documents prepared by Respondent's Counsel on behalf of D T Development, Inc.
Letter from Burton Lumber to D T Development, Inc. dated December 16, 2004.
Member of the Utah Residence Lien Recovery Fund Advisory Board Minutes dated December 8, 2004.
Letter from Colf's Plumbing dated January 19, 2005.
Letter from Reliance Electric.
Letter from Quality Realty dated February 4, 2005.
Letter from Abi Garaman dated February 2, 2005.
Resolution dated January 6, 1997.
Letter from Hope Kovacs dated January 27, 2005.

Letter from L M M Development dated February 8, 2005.
Letter from BACT Limited Partnership dated February 9, 2005.
Letter from Nevada Contractors Board to D T Development dated February 2005.
Notice of Hearing dated February 1, 2005.
Original Complaint dated December 23, 2004.
D T Development Inc.'s answer to complaint dated January 31, 2005.
D T Development, Inc. financial statement dated August 31, 2003.

Exhibit B – Letter from State of Utah to D T Development, Inc. dated February 7, 2005. Letter from Brad Parsons, Esq. to Margi Grein dated February 17, 2005.

Exhibit C – Letter from Investigator Bob Macke to D T Development, Inc. dated February 3, 2005.

Hearing Officer Filios found Respondent D T Development, Inc., Aaron D. Needham, President, license number 54504 guilty of violation of NRS 624.302(4) suspension, revocation or other disciplinary action taken by another state against a contractor based on a license issued by that state is conclusive evidence of that action. License number 54504, D T Development is Suspended until matters with the State of Utah are resolved. The Respondent is ordered to submit to a Business Review within 60 days from February 23, 2005. The result of the Business Review will be presented to the Executive Officer. The Respondent will be provided billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative costs will result in the Suspension of the license.

3. DISCIPLINARY HEARING:

NEVADA PLASTERING, INC., LICENSE NO. 48203

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from Nevada Contractors Board to Jack Canning dated October 15, 2004.

Exhibit 3 – Two separate faxes from D T Development, Inc. to Canning Construction Group dated October 25, 2004.

Exhibit 4 – Memo from D T Development, Inc. dated February 22, 2005.

Exhibit 5 – Building Permit dated April 15, 2004.

Hearing Officer Filios found Respondent Nevada Plastering, Inc., Anthony Gonzalez, President, license number 48203 guilty of violation of NRS 624.3012(2) willful or deliberate failure of any licensee or agent or officer thereof to pay any money due for materials or services rendered; NRS 624.302(6) failure or refusal to comply with a written request from the Board for information or records. Mr. Gonzales was assessed a fine of \$1,000.00 for the Second Cause of Action and a fine of \$250.00 for the Fourth Cause of Action for a total fine of \$1,250.00. The First and Third Causes of Action were dismissed. Investigative costs were assessed in the amount of \$1,487.00. Fines and costs are to be paid within 90 days from February 23, 2005 or license number 48203, Nevada Plastering, Inc. will automatically be Revoked. Mr. Gonzalez was ordered to pay restitution to Canning Construction Group in the amount of \$4,059.00 within 30 days from February 23, 2005 or license number 48203, Nevada Plastering, Inc. will automatically be Suspended. License number 48203, Nevada Plastering is Suspended until fines and restitution are paid.

4. DISCIPLINARY HEARING: (Continued from January 20, 2005) **DESERT SUN LANDSCAPE, LICENSE NO. 51715**

This matter was continued from the January 20, 2005 Board Meeting due to conflicting testimony between the Respondent and the homeowner.

Licensee was present with Counsel Keith Gregory, Esq.

The following Agency Exhibits were entered.

Exhibit 3 – List of supplies created by Karen Dell.

Exhibit 4 – Copy of receipt of cash payment.

Exhibit 5 – Photos taken January 31, 2005.

Exhibit 6 – Transcript of testimony dated January 20, 2005.

The following Respondent Exhibits were entered.

Exhibit C – Agreement with Karen Dell and Mr. Concrete reflecting payments.

Hearing Officer Filios found Respondent John W. Barth, dba Desert Sun Landscape, license number 51712 guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board’s Notice to Correct; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3014(2)(a)(b) aiding or abetting an unlicensed person to evade the provisions of this chapter and combining or conspiring with an unlicensed person to perform an unauthorized act; NRS 624.3015(3) knowingly entering into a contract with a contractor while that contractor is not licensed; NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or of any political subdivision thereof; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3013(5), as set forth in NAC 624.640(5) 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. Mr. Barth was assessed a fine of \$500.00 for the First, Third and Fifth Causes of Action, \$200.00 for the Second Cause of Action, \$1,000.00 for the Fourth and Sixth Causes of Action and \$100.00 for the Ninth Cause of Action for a total fine of \$3,800.00. Investigative costs were assessed in the amount of \$569.00. Mr. Barth is to pay restitution to the homeowner in the amount of \$10,600.00. Fines, costs and restitution are to be paid within 60 days from February 23, 2005 or License number 51712, John W. Barth, dba Desert Sun Landscape will automatically be Revoked. The Respondent is ordered to submit to a Business Review within 120 days from February 23, 2005. The result of the Business Review will be presented to the Executive Officer. The Respondent will be provided billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative costs will result in the Suspension of the license.

5. DISCIPLINARY HEARING:

LEGACY CONSTRUCTION ENTERPRISES, LICENSE NO. 50647

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from Olympus Construction dated September 8, 2004.

Exhibit 3 – Conditional Waiver of Release dated May 11, 2004.

Exhibit 4 – Fax cover sheet from C & W Enterprises, Inc. to Legacy Construction Enterprises dated May 14,

2004.

Exhibit 5 – Fax from C & W Enterprises, Inc. to Legacy Construction Enterprises dated May 14, 2004.

Exhibit 6 – Letter from Legacy Construction Enterprises to C & W Enterprises, Inc. dated June 14, 2004.

Exhibit 7 – Conditional Waiver of Release dated May 17, 2004.

Exhibit 8 – Copy of check from C & W Enterprises, Inc. to Southern Nevada Paving dated June 17, 2004.

Exhibit 9 – Unconditional Waiver of Release dated June 17, 2004.

Exhibit 10 - Memo drafted by Sonya Moreno to Legacy Construction Enterprises dated September 7, 2004.

Hearing Officer Filios continued this matter to the March 29, 2005 Board Meeting to allow the Respondent to be present.

6. DISCIPLINARY HEARING – DEFAULT ORDERS:

a. R G C CONSTRUCTION, INC., LICENSE NOS. 38171, 40245, 49476, 54882

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent R G C Construction, Inc., Rolando A. Hernandez, Jr., President, license numbers 38171, 40245, 49476, 54882 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Hernandez was found guilty of violation of NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(4) failure to keep in force the bond or cash deposit pursuant to NRS 624.270 for the full period required by the Board; NRS 624.3018(2) association of any act or omission constituting a cause for disciplinary action. License numbers 38171, 40245, 49476 and 54882 R G C Construction, Inc. was Revoked. Mr. Hernandez is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,111.00 and any expenses that may be paid out of the Residential Recovery Fund.

b. PACIFIC CONCEPTS, LICENSE NO. 35736

Licensee was present.

Hearing Officer Filios granted continuance of this matter at the request of the Respondent to the March 29, 2005 Board Meeting.

d. CHIEF CONTRACTING, INC., LICENSE NO. 50732

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Chief Contracting, Inc., Donna D. Lord, President, license number 50732 in default and adopted the Findings of Fact and Conclusions of Law as set forth in Administrative complaint. Ms. Lord was found guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's

Notice to Correct; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NAC 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or of any political subdivision thereof; NRS 624.3013(5), as set forth in NAC 624.640(5) 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. License number 50732, Chief Contracting was Revoked. Ms. Lord is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,288.00 and any expenses that may be paid out of the Residential Recovery Fund.

e. STONES CLASSICS ELECTRIC, LICENSE NO. 41235

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Destri Rae Stone, dba Stones Classic Electric, license number 41235 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Stone was found guilty of violation of NRS 624.3012(2) willful or deliberate failure to pay any money due for materials or services rendered; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(4) failure to keep in force the bond or cash deposit pursuant to NRS 624.270 for the full period required by the Board. License number 41235 Destri Rae Stone, dba Stones Classic Electric was Revoked. Mr. Destri is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,226.00 and any expenses that may be paid out of the Residential Recovery Fund.

f. CERTIFIED GLASS & MIRROR, LICENSE NO. 51283

Licensee was not present.

This matter was continued at the request of the Respondent to the March 29, 2005 Board Meeting.

g. AWNINGS PLUS, LICENSE NO. 23183

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Amelia May Ward, dba Awnings Plus, license number 23183 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Ms. Ward was found guilty of violation of NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or of any political subdivision thereof; NRS 624.3015(2) bidding to contract for a sum for one construction contract in excess of the limit placed on the license by the Board; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3013(4) failure to keep in force the bond or cash deposit pursuant to NRS 624.270 for the full period required by the Board; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3017(3) advertising projects of construction beyond the scope of the license. License number 23183, Amelia May Ward, dba Awnings Plus was Revoked. Ms. Ward is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,648.00 and any expenses that may be paid out of the Residential Recovery Fund.

7. DISCIPLINARY HEARING:**PATIO DESIGNS BY CHARLES**, LICENSE NO. 51339

Licensee was present with Counsel Richard Pee, Esq. and Dale Rycraft, Jr., Esq.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from Investigator Paul Easton to Huang Zhen dated September 16, 2004.

Exhibit 3 – Photos taken of the Zhen residence February 18, 2005.

Exhibit 4 - Photos taken of the Zhen residence February 22, 2005.

The following Respondents Exhibits were entered.

Exhibit A – Documents prepared by Respondent's Counsel on behalf of Patio Designs by Charles.

Letter from Peel Brimley, LLP to Margi Grein dated February 14, 2005.

Three separate financial statements dated June 30, 2004.

Minutes of the Meeting of C H Homeowners Acceptance Corporation.

Letter from Patio Designs By Charles to George Lyford dated January 26, 2005.

Fax from Patio Designs By Charles to George Lyford dated January 27, 2005.

Hearing Officer Filios found Respondent Charles D. Higuera, dba Patio Designs By Charles, license number 51339 guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; Three (3) violations of NRS 624.302(5) failure to cooperate in an investigation; Six (6) violations of NRS 624.3015(1) acting in the capacity of a contractor beyond the scope of the license; Six (6) violations of NRS 624.3015(3) knowingly entering into a contract with a contractor while that contractor is not licensed, or bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license; Six (6) violations of NRS 624.3014(2)(a)(b) aiding or abetting an unlicensed person to evade the provisions of this chapter and combining or conspiring with an unlicensed person to perform an unauthorized act; NRS 624.3013(3) failure to establish financial responsibility; Two (2) violations of NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or any political subdivision thereof; NRS 624.3017(3) advertising projects of construction beyond the scope of the license; NRS 624.3013(5), as set forth in NAC 624.640(5) 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. Mr. Higuera was assessed a fine of \$2,000.00 for all Causes of Action. Investigative costs were assessed in the amount of \$4,089.00. Fines and costs are to be paid within 90 days from February 23, 2005 or license number 51339, Charles D. Higuera, dba Patio Designs By Charles will automatically be Revoked. Mr. Higuera must complete the Zhen Project within 10 days from February 23, 2005 or license number 51339, Charles D. Higuera, dba Patio Designs By Charles will automatically be Suspended. Mr. Higuera is to provide a current financial statement prepared by a Certified Public Accountant within 30 days from February 23, 2005. The Respondent is ordered to submit to a Business Review within 90 days from February 23, 2005. The result of the Business Review will be presented to the Executive Officer. The Respondent will be provided billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative costs will result in the Suspension of the license.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Filios at 12:15 p.m.

Respectfully Submitted,

Traci Greenlee, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Spiridon Filios, Hearing Officer