

JIM GIBBONS
Governor

STATE OF NEVADA



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MEMBERS
Guy M. Wells, Chairman
Kevin E. Burke
Michael Efstratis
John C. Ellison
Jerry Higgins
Nathaniel W. Hodgson, III
William "Bruce" King

STATE CONTRACTORS BOARD

MINUTES OF THE MEETING February 25, 2009

CALL TO ORDER:

Hearing Officer Wells called the meeting of the State Contractors Board to order at 8:30 a.m., Wednesday, February 25, 2009, 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. Guy Wells
Mr. Kevin Burke
Mr. John Ellison
Mr. Jerry Higgins
Mr. Nathaniel Hodgson

STAFF MEMBERS PRESENT:

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

STAFF MEMBERS NOT PRESENT:

Mr. George Lyford, Director of Investigations

LEGAL COUNSEL PRESENT:

Mr. Jonathan Andrews, Esq., Legal Counsel
Mr. David Brown, Esq., Legal Counsel

Ms. Grein stated the agenda was posted in compliance with the open meeting law on February 19, 2009 at Las Vegas City Hall, Sawyer State Building and Clark County Library. The agenda was also posted in both offices of the Board, Henderson and Reno and on the Board Internet Website.

ADJUDICATING BOARD MEMBER: GUY WELLS

1. DISCIPLINARY HEARING:

BANGLE ENTERPRISES, INC., LICENSE NO. 17956A

Licensee was present with counsel, James Silvestri, Esq.

Three witnesses testified for the Board.

One witness testified for the Respondent.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Hartmut Yago's Residential Construction Loan Agreement.

The following Respondents Exhibits were entered:

Exhibit A – Respondent's Answer to the Board's Complaint.

Exhibit B - Respondent's Responsive Pleading to Complaint.

Exhibit C – A letter dated February 17, 2009 from Respondent to Yago.

Exhibit D – An e-mail from Respondent's previous counsel to Respondent regarding the Yago complaint, dated August 8, 2007.

Exhibit E – Two (2) character recommendations.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NRS 520(1) failure to provide Residential Recovery Fund notice to owner. Respondent was assessed a fine of \$1,000.00 for the Second Cause of Action and \$100.00 for the Fourth Cause of Action for total fines of \$1,100.00 and investigative costs in the amount of \$2,479.00. The First and Third Causes of Action were found not guilty. Fines and costs to be paid within thirty (30) days of the February 25, 2009 Board Hearing or license number 17956A, Bangle Enterprises, Inc., will be suspended.

2. DISCIPLINARY HEARING: (Continued from January 28, 2009)

MIZRACHI CONSTRUCTION, dba ABES CONSTRUCTION, LICENSE NOS. 53120 and 68383

SALMIZ, INC., dba GLOBAL FLOORING, LICENSE NO. 69893

Licensee was present with counsel, John Wawerna, Esq.

Four witnesses testified for the Board.

One witness testified for the Respondent.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – City of Las Vegas Inspection Record dated June 18, 2008 for 8225 Wooden Windmill Court.

Exhibit 3 – City of Las Vegas Inspection Report dated December 8, 2008 for 8225 Wooden Windmill Court.

Exhibit 4 – A letter dated February 24, 2009 from Craig Down of Omega Products International.

Exhibit 5 – Six (6) photos of the Dalton project taken by Board Investigator Greg Welch on February 24, 2008.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's Answer to the Board's Complaint.

Exhibit B – A letter from Respondent's counsel, John Wawerna, Esq. dated February 13, 2009 with attachments

Exhibit C – Two (2) letters from the Respondent to the Board dated July 31, 2008 and September 3, 2008.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one violation of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; one (1) violation of 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 the license and any monetary limit placed upon his license; one (1) violation of NRS (624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. The Fifth Cause of Action was dismissed. Respondent was assessed a fine of \$500.00 for each of the First and Sixth Causes of Action; \$100.00 for each of the Second, Third and Fourth Causes of Actions for total fines of \$1,300.00 and investigative costs in the amount of \$996.00. Respondent shall make restitution to Darrell Dalton in the amount of \$10,134.00. Restitution, fines and costs to be paid within sixty (60) days of the February 25, 2009 Board Hearing or license numbers, 53120 and 68383 Mizrachi Construction, dba, Abes Construction and license number 69893, Salmiz, Inc., dba Global Flooring will be suspended. License number 68383 shall be suspended until Respondent provides a financial statement that supports the \$200,000.00 license limit.

3. DISCIPLINARY HEARING:

DOKMAI FLOWER LANDSCAPE CONTRACTOR, LLC, dba FLOWERS GARDEN, LICENSE NO. 55488

Licensee was present.

One witness testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing file.

Exhibit 2 – a letter dated September 19, 2008 with attachments from Sandra Swindle.

Exhibit 3 – a letter dated September 29, 2008 with an attachment from Sandra Swindle.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's Answer to the Board's Complaint, which included a letter from Southwest Pavers admitting to the workmanship issues at the Swindle residence.

Exhibit B – A set of the Swindle plans for the front and backyards.

Exhibit C – Respondent's postcard for mailers.

Hearing Officer Wells after hearing all the evidence made the decision to dismiss this matter.

4. DISCIPLINARY HEARING:

NORTH ELECTRIC, LLC, LICENSE NO. 45374A

Licensee was present.

Four witnesses testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – A letter to Respondent's counsel, Miriam Rodriguez, Esq. from the Board, dated September 18, 2008.

The following Respondent's exhibits were entered:

Exhibit A – Respondent's request for a subpoena dated January 19, 2009.

Exhibit B – Invoice #207756, dated November 11, 2007.

Exhibit C – Respondent's letter to the Board, dated January 21, 2009, disputing invoices from City Electric Supply.

Exhibit D – Respondent's contract with Greater Auto for \$5,700.00, dated October 4, 2007.

Exhibit E – American Express card activity for Maritza Rodriguez, dated January 19, 2009.

Exhibit F – American Espress transaction descriptions.

Exhibit G – Respondent's statement from City Electric Supply.

Exhibit H – City of Las Vegas Building & Safety Inspection requests dated October 3, 2007.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$1,000.00 and investigative costs in the amount of \$1,889.00. Fines and costs to be paid within sixty (60) days of the February 25, 2009 Board Hearing. License is suspended until Respondent can provide a financial statement that supports its license limit.

5. DISCIPLINARY HEARING:

SERVICE – 1, INC., dba THOMAS PLUMBING, SEWER & DRAIN, LICENSE NO. 37901

Licensee was present with counsel, Philip Varricchio, Esq.

Two witnesses testified for the Board.

One witness testified for the Respondent.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Site photos taken by Investigator Norman, dated February 24, 2009.

Exhibit 3 – Respondent's Decision and Order dated August 18, 1999.

The following Respondent's Exhibits were entered:

Exhibit A – The Respondent's Answer to the Board's Complaint.

Exhibit B – Respondent's Motion to Set Aside Default ad Request for Reconsideration.

Exhibit C – Three (3) photos taken at the Macedo residence by the Respondent.

Exhibit D – Fourteen (14) additional photos taken at the Macedo residence by the Respondent.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$500.00 and investigative costs in the amount of \$1,433.00. The First and Second Causes of Action were dismissed. Fines and costs to be paid within thirty (30) days of the February 25, 2009 Board Hearing or license number 37901, Service – 1, Inc., dba Thomas Plumbing, Sewer & Drain will be suspended. License is suspended until work is completed and proof is shown to Investigator Norman. The license limit was reduced to \$50,000.000, with a \$5,000.00 bond.

6. DISCIPLINARY HEARING: (Stipulated Revocations)

a. T. S. L. Enterprises, Inc., dba UBuiltIt Henderson, License No. 57319

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Respondent's letter stipulating to the revocation of its license.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.301(1) abandonment of construction project; one (1) violation of NRS 624.301(2) abandonment of construction project when percentage completed is less than percentage of total contract paid; two (2) violations of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; two (2) violations of 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 the licensee and any monetary limit placed upon his license; one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$2,600.00 and investigative costs of \$2,337.00. License number 57319, T. S. L. Enterprise, Inc., dba UBuiltIt Henderson, was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

b. POOL, INC., dba WORLDMARK POOLS & SPAS, License No. 56570

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Respondent's letter dated January 28, 2009 stipulating to the revocation of its license.

Hearing Officer Wells found Respondent guilty of ten (10) violations of NRS 624.3012(2) willful failure to pay any money when due to materials or service; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; one (1) violation of NRS 624.301(2) abandonment of construction project when percentage completed is less than percentage of total contract paid; four (4) violations of 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 the license and any monetary limit placed upon his license; one (1) violation

of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$10,000.00 and investigative costs of \$6,723.00. License number 56570, Pool, Inc., Worldmark Pools & Spas was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

c. CLARK COUNTY SERVICES, LLC, License No. 62797

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Respondent's letter dated February 2, 2009 stipulating to the revocation of its license.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3011(1)(b)(4) willful disregard of the industrial insurance laws of the State; one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board. Respondent was assessed a total fine of \$1,000.00 and investigative costs of \$1,576.00. License number 62797, Clark County Services, LLC, was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

d. PROBUILT SERVICES, LLC, License No. 68032

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Respondent's letter dated February 4, 2009 stipulating to the revocation of its license.

Hearing Officer Wells found Respondent guilty of one (1) violation of NRS 624.3012(1) diversion of money; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board. Respondent was assessed a total fine of \$1,500.00 and investigative costs of \$1,593.00. License number 68032, Probuilt Services, LLC, was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

e. M. S. I. LANDSCAPING, INC., License No. 49229

M. S. I. CONCRETE SERVICES, INC., LICENSE NO. 53653

M. S. I. DEVELOPMENT, INC., LICENSE NO. 62989

MIST SYSTEMS INTERNATIONAL, INC., LICENSE NO. 44109

M. S. I. DEVELOPMENT, A DIVISION OF MIST SYSTEMS INTERNATIONAL, INC.,
LICENSE NO. 48359

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Respondent's letter dated February 4, 2009 stipulating to the revocation of all licenses.

Hearing Officer Wells found Respondent guilty of one (1) violation NRS 624.302(5) failure to comply with a written request by the Board; one (1) 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee; one (1) violation of NRS 624.302(5) failure to comply with a written request by the Board. No fines or costs were assessed as Respondents are in receivership. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

7. DISCIPLINARY HEARING – DEFAULT ORDERS

a. X-TREME PLASTERING, LLC., LICENSE NO. 67760

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent X-Treme Plastering, LLC, license number 67760, Robert James Phillips, Jr., Manager, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Phillips was found guilty of one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board. Respondent was assessed a fine of \$1,000.00 and investigative costs in the amount of \$1,406.00. License number 67760, X-Treme Plastering, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

b. AIR SOURCE AIR CONDITIONING AND HEATING, LICENSE NO. 49494

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent Air Source Air Conditioning and Heating, license number 49494, John Richard Gyselaar, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Gyselaar, was found guilty of one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board. Respondent was assessed a total fine of \$1,000.00 and investigative costs in the amount of \$1,690.00. License number 49494, Air Source Air Conditioning and Heating, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

c. DUGAN ENTERPRISES, LLC, LICENSE NO. 69342

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent Dugan Enterprises, LLC, license number 69342, Charles Todd Dugan, Managing Member and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Dugan was found guilty of one (1) violation of NRS 624.302(5) failure to comply with a written request by the Board; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$1,500.00 and investigative costs in the amount of \$1,781.00. License number 69432, Dugan Enterprises, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

d. DE LA VEGA CONSTRUCTION, LLC, LICENSE NO. 63964

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent De La Vega Construction, LLC, license number 63964, Ruben Sanchez De La Vega, Manager and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. De La Vega was found guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$500.00 and investigative costs in the amount of \$1,310.00. License number 63964, De La Vega Construction, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

e. PRIMEWIRE, INC., LICENSE NO. 69201

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent Primewire, Inc., license number 69201, David Bui, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Bui was found guilty of one (1) violation of NRS 624.302(5) failure to comply with a written request by the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$1,000.00 and investigative costs in the amount of \$1,403.00. License number 69201, Primewire, Inc., was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

f. WE GOTCHA COVERED, INC., LICENSE NOS. 59416, 58989, 60320 and 60321

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent We Gotcha Covered, Inc., license numbers 59416, 58989, 60320 and 60321, Raymond Joseph Nogera, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Nogera was found guilty of one (1) violation of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure in any material respect to comply with the provisions of this chapter or the regulations of the Board and if a licensee's address or personnel changes, he shall report the changes in writing to the Board within 30 days of the change; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a total fine of \$2,250.00 and investigative costs in the amount of \$1,437.00. License numbers, 59416, 58989, 60320 and 60321, We Gotcha Covered, Inc., were revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

g. M. E. C. CONSTRUCTION, LLC, LICENSE NO. 54963

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent M. E. C. Construction, LLC, license number 54963, Joseph F. Weitekamp, Manager and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Weitekamp was found guilty of two (2) violations of NRS 624.302(5) failure to comply with a written request by the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel. Respondent was assessed a fine of \$1,500.00 and investigative costs in the amount of \$2,509.00. License number 54963, M. E. C. Construction, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

h. CLEAR CHOICE DEVELOPMENT GROUP, INC., dba THURSTON CONSTRUCTION , LICENSE NO. 60132

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Wells found Respondent Clear Choice Development Group, Inc., dba Thurston Construction, license number 60132, Steven Allan Thurston, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Thurston was found guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(4) failure to keep bond in force. Respondent was assessed a fine of \$2,750.00 and investigative costs in the amount of \$2,399.00. License number 60132, Clear Choice Development Group, Inc., dba Thurston Construction, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Wells at 3:08 p.m.

Respectfully Submitted,

Janet Brinkley, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Guy Wells, Hearing Officer