

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

MICHAEL ZECH
Chairman
DOUGLAS W. CARSON
MARGARET CAVIN
DAVID W. CLARK
JERRY HIGGINS
DENNIS K. JOHNSON
RANDY SCHAEFER



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STATE CONTRACTORS' BOARD

MINUTES OF THE MEETING JANUARY 23, 2002

1. CALL TO ORDER

The meeting of the State Contractors' Board was called to order by Chairman Michael Zech at 8: 20 a.m., Wednesday, January 23, 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
Mr. Douglas W. Carson left @ 10:00 a.m./returned @ 10:40 a.m./left @ 2:15 p.m.
Ms. Margaret Cavin
Mr. David Clark
Mr. Jerry Higgins
Mr. Dennis Johnson
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:

Mr. Robert Griffy, Legal Counsel (Haney, Woloson & Mullins)
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
Mr. David Reese, Legal Counsel (Cooke, Roberts & Reese)

Ms. Grein stated that Jerry McGill had posted the agenda in compliance with the open meeting law on January 17, 2002, 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, Henderson and Reno, and on the Board's Internet web site.

2. EXECUTIVE SESSION

Ms. Grein presented several items pertaining to the Executive Session for perusal by Board Members.

A. REGULATIONS

1. **LCB FILE R-20701** - Ms. Grein requested approval of LCB File R-207-01, adopting Rules of Practice for the commission on Construction Educations pursuant to NRS 624.570

MS. CAVIN MOVED TO APPROVE THE PROPOSED REGULATION LCB FILE R207-01 AS WRITTEN.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

2. **AMENDMENT TO NAC 624.800** – Exemption for Property Owner Building or improving structures. Ms. Grein advised the Board of the revision to NRS 624.031(4) requiring owners of property to apply to the Board for the exemption. Ms. Grein pointed out the requirement for the Board to adopt regulations setting forth the conditions for granting the exemption. It was generally agreed that requiring a standardized affidavit form might be an acceptable solution to ensure compliance with the new law.

3. **REVIEW OF RULES OF PRACTICE AND REGULATIONS PURSUANT TO NRS 233B.050** - Ms. Grein provided an overview of NRS 233B.050. She read excerpts from NRS 233B and reiterated the statutory requirement for the Board to review the rules of practice at least once every three years. A statement needs to be filed with the Secretary of State setting forth the date the review was completed and any revisions made as a result of the review. Ms. Grein stated she had requested a legal opinion from David Reese, board Counsel, in September 1998 concerning the Administrative Procedures Act, the Board's Rules of Practice, and compliance with the legal requirement in NRS 233B. She pointed out that Mr. Reese had provided a written response to some of her questions in regards to NRS 233B. She stated that Mr. Reese opined that very few, if any Board's complied with the law and it was his opinion the Board's decisions would not be overturned for failing to adhere to the requirements. Ms. Grein concluded she had relied on the advice provided by counsel, since that time, however, the subject is part of a case currently pending with the Supreme Court. She concluded with a request that Board Counsel ensure the requirements of NRS 233B were met.

MR. CARSON MOVED TO HAVE THE BOARD'S ATTORNEY, MR. DAVID REESE, SUBMIT THE RULES OF PRACTICE AND REGULATIONS TO THE SECRETARY OF STATE.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

B. REPORT BY EXECUTIVE OFFICER

1. **PERFORMANCE EVALUATIONS** – Continued to January 24, 2002
2. **STAFF ATTORNEY SEARCH** – Ms. Grein provided the Board with copies of the resumes received to date for the in-house counsel position. Discussion ensued regarding the requirements of the position. It was agreed that Mr. Higgins and Mr. Carson would assist in reviewing the resumes and make a recommendation to the Board.
3. **LEGAL REPRESENTATION AND PENDING CASES** – Mr. Reese and Mr. Griffy

provided the Board with a status report on pending court cases.

4. **APPROVAL OF QUARTERLY REPORT** - Ms. Grein requested continuance of the December 31, 2001, Executive Officer's Quarterly Report.

5. **POLICIES AND PROCEDURES** – Ms. Grein provided the Board with proposed revisions to the Employee Handbook to include the Human Resources Department in several policies, including Policy 718 – Problem Resolution.

Ms. Grein gave some background information on hearing officers and pointed out the benefits that could be derived from using hearing officers on certain cases that are coming to the Board. Ms. Grein mentioned using a citation in the Enforcement Advisory Committee meetings. The Board was in favor of the use of citations but would like to wait on the use of hearing officers.

6. **FUTURE AGENDAS** – Ms. Grein reviewed the agendas with the Board for the February meetings in Reno and Las Vegas. Discussion ensued regarding the training session on Administrative Law scheduled for February 5, 2002. Accordingly, a decision was made to postpone the training session until the in house counsel position was filled.

7. **PUBLIC EDUCATION** – Ms. Grein inquired on how to proceed with the construction summit, which was discussed at the December 5, 2001, strategic planning session. The Board tabled the request until the January 24, 2002, Board meeting.

8. **EXPENDITURE APPROVAL** – Mr. Peter Chachere, Sales Manager, Mojave Electric, Inc., discussed with the Board the different telecommunications and video conferencing equipment needed to be used between the Reno and Henderson offices.

C. **PUBLIC INFORMATION** – Ms. Sonya Ruffin, Public Information Specialist, provided the Board draft copies of letters to be sent to homeowners in the process of having a pool and/or spa built. The Board informed Ms. Ruffin what they would like to see in the letter. Mr. Greg Welch, NSCB Investigator, informed the Board that this letter was the Board's way of letting the consumer know that the Board is there to help them.

D. DEPARTMENT REPORTS

1. **INVESTIGATIONS DIVISION** – Mr. Chris Denning, Deputy Director of Investigations, presented the aging report for the Las Vegas Compliance Department.

2. **LICENSING DIVISION** – This matter was continued.

3. **HUMAN RESOURCES** - Mr. Bart Thurgood, Human Resources Manager, provided an overview of the items discussed at the last Board meeting.

DISCIPLINARY HEARING

3. **A D A COMPLIANCE CORPORATION**, LICENSE NOS. 48704, 48702 AND 48703 – DISCIPLINARY HEARING (CONTINUED FROM NOVEMBER 20, 2001)

Mr. Michael Loya, President, A D A Compliance Corporation; Mr. Troy Baker, Attorney; NSCB Investigator Mr. Bob Macke; and Mr. Walter Candelarta, Division of Water Resources were present.

Mr. Macke testified that the well is an undocumented well and that Mr. Webb indicated that the well was on his property when he bought it. Mr. Macke stated that A D A Compliance had not applied for a reconditioning permit.

Mr. Candelarta explained the Division of Water Resources requirements that A D A Compliance would have to meet in order to comply with its regulations and laws.. Mr. Candelarta stated Mrs. Webb had called the Division of Water Resources and described the well and was informed that the well was undocumented and that no well log existed. He referred to the statutes that allow a licensed well driller to repair the motor and other parts of an existing well as long as a drill rig is not used. He concluded his testimony by commenting that work on the pump and draw pipe does not require a permit.

Mr. Loya testified that he had notified the homeowner, Mr. Webb, to contact the Las Vegas Valley Water District to hook up to city water. He noted Mr. Webb planned to complete the plumbing work.

MR. JOHNSON MOVED TO DISMISS THE CHARGES.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

4. INFORMAL SETTLEMENT AGREEMENTS

1. BILLY KUHN & SONS, LICENSE #38190

MR. JOHNSON MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$602.00 WITHIN 30 DAYS FROM THE DATE OF THE BOARD'S APPROVAL OF THE AGREEMENT AND A WARNING LETTER BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

2. DESERT RAIN ENVIROSCAPE SERVICES, INC., LICENSE #52133

MS. CAVIN MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT PAY OF AN ADMINISTRATIVE FINE OF \$500.00 WITHIN 30 DAYS FROM THE DATED OF THE BOARD'S APPROVAL OF THE AGREEMENT; REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$461.00 WITHIN 30 DAYS FROM THE DATE OF THE BOARD'S APPROVAL OF THE AGREEMENT; AND A WARNING LETTER BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR .

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

3. NEVADA POOLS,INC., LICENSE #6917C

MR. JOHNSON MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$461.00 WITHIN 30 DAYS OF THE BOARD'S APPROVAL OF THE AGREEMENT; A WARNING LETTER BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR; AND ALL CONTRACTS ARE TO BE BROUGHT UP TO COMPLIANCE WITHIN 45 DAYS FROM THE DATE OF THE SETTLEMENT AGREEMENT BEING APPROVED BY THE BOARD.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

4. VEGAS STEEL, INC., LICENSE #41837

MR. CLARK MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT PAY AN ADMINISTRATIVE FINE OF \$1,000.00 WITHIN 30 DAYS FROM THE BOARD'S APPROVAL OF THE AGREEMENT; REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$530.00 WITHIN 30 DAYS FROM THE DATE OF THE BOARD'S APPROVAL OF THE AGREEMENT; AND A WARNING LETTER BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

5. BRAMBLE DEVELOPMENT GROUP, INC., LICENSE NOS. 41440 AND 42240

MR. HIGGINS MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT PAY AN ADMINISTRATIVE FINE OF \$500.00 WITHIN 30 FROM THE BOARD'S APPROVAL OF THE AGREEMENT; REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$471.00; AND A WARNING LETTER BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

5. LUDWIG ENGINEERING, INC., LICENSE NOS. 39089 AND 39260

MR. JOHNSON MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT PAY AN ADMINISTRATIVE FINE OF

\$4,000.00 WITHIN 30 DAYS FROM THE BOARD'S APPROVAL OF THE AGREEMENT; REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$1,488.00 WITHIN 30 DAYS FROM THE BOARD'S APPROVAL OF THE AGREEMENT; AND A WARNING LETTER TO BE PLACED IN THE RESPONDENT'S FILE FOR ONE YEAR.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

7. KENNETH SCHULTZ, LICENSE #36017

MS. CAVIN MOVED TO ACCEPT THE STIPULATED SETTLEMENT AGREEMENT THAT THE RESPONDENT PAY AN ADMINISTRATIVE FINE OF \$1,000.00 WITHIN 10 DAYS FROM THE BOARD'S APPROVAL OF THE AGREEMENT AND REIMBURSE THE BOARD FOR INVESTIGATIVE COSTS OF \$568.00 WITHIN 10 DAYS FROM THE BOARD'S APPROVAL OF THE AGREEMENT.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON ABSTAINED.

5. ADVISORY OPINION

CITY OF WINNEMUCCA – The City of Winnemucca requested an Advisory Opinion concerning the licensing requirements for the installing of a pellet stove.

Based upon the information provided, the Board opined that a pellet stove could be installed by a contractor holding a C-10 (f) classification license.

SWAINSTON CONSULTING GROUP – The Swainston Consulting Group requested an Advisory Opinion concerning the licensing requirements necessary for someone to provide a Quantity Survey and associated Cost estimate for purposes other than bidding or proposing to do construction work as a contractor.

Based upon the information provided, the Board opined that contractors license would not be required to provide a quantity survey and associated cost estimate for purposes other than bidding or proposing to do construction work as a contractor. The Board further opined that if Swainston Consulting Group is acting as a managing contractor, or providing counseling services on a construction project for a professional fee, a contractor license would be required. The license must be sufficient in scope and limit for the project.

BUILDING SOLUTIONS LLC – Building Solutions LLC requested an Advisory Opinion concerning the licensing requirements to pull a building permit and construct a pre-engineered steel picnic shelter with associated foundation and earthwork.

Based upon the information provided, the Board opined that a contractor with an A (General Engineering); B (General Building); or a B-2 (Residential and Small Commercial)

license could perform the work described.

DISCIPLINARY HEARING

6. JOSEPH R. DEBLANCO, LICENSE #47524 – DISCIPLINARY HEARING

Mr. Joseph DeBlanco, Owner; Mr. Gentry Walsh, President of Jade Summit LLC; Mr. Jamie Gonzales, Homeowner; NSCB Investigator Mr. Greg Welch and NSCB Investigator Mr. Bob Macke were sworn in.

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

The Stipulation was entered into the record as Exhibit #2.

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 624.6958(2)(o); NRS 624.3013(5), as set forth in NAC 624.6958(2)(l); NRS 624.3013(5), as set forth in NAC 624.6966(5); NRS 624.3013(5), as set forth in NAC 624.6958(2)(l)(1) and (2); NRS 624.3015(3); NRS 624.301(1); NRS 624.3013(5), as set forth in NAC 624.6964(4);, NRS 624.3013(5), as set forth NAC 624.640(5); NRS 624.3014(1); NRS 624.3013(1); and NRS 624.600(1)(a).

Mr. Gonzales testified that he had contracted with Blue Marlan Pools & Spa Co. for the construction of a pool, spa and patio at his residence. He said that the tiles on the roof had not been completely installed, no deck drains had been installed which is causing ponding, the line to the misting apparatus is buried in plaster and the Respondent had not finished the spa. Mr. Gonzales informed the Board the Respondent's contract had failed to contain a notice stating the owner has the right to request a payment and performance bond. Mr. Gonzales testified that the subcontractors on his project, Tile Tech, Inc. and Outlaw Iron Works, were both unlicensed contractors.

Mr. Macke testified that Mr. Gonzales had completed all the items on the Notice to Correct himself. He stated Mr. Gonzales waited to complete the work until the 30 days on the Notice to Correct had passed and had pulled the permits in his name so he could complete the work.

Mr. Welch testified that the Respondent's contract did not contain, in close proximity of the signatures, the wording for a payment and performance bond for the entire time of the project. Mr. Welch stated that the Respondent requested \$26,000.00 instead of the \$1,000.00 for the downpayment, that he failed to furnish an unconditional lien release to the homeowner, and that the Respondent received the final payment before the final inspection. Mr. Welch concluded that the Respondent was contracting for work under Blue Marlan Pool & Spa Co., which is not licensed by the Board.

Mr. DeBlanco testified that he had hired his father-in-law, Mr. Michael Lumbara, to complete the Gonzales project. He maintained that Mr. Lumbara was responsible for the hiring of subcontractors. Mr. DeBlanco declared that due to Mr. Lumbara embezzling from his company, he was unable to finish the Gonzales project. Mr. DeBlanco continued with his testimony, claiming he had lost his house and is currently doing consulting and engineering work for Jade Summit LLC. He stated that he had not paid off the liens on the Gonzales project. Mr. DeBlanco concluded his testimony, noting he had developed a repayment plan.

The evidentiary portion of the hearing was closed.

MR. HIGGINS MOVED TO FIND JOSEPH R. DEBLANCO, LICENSE #47524, IN

VIOLATION OF ALL CHARGES.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO REVOKE LICENSE #47524, JOSEPH R. DEBLANCO AND TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTY OR SUBMIT A PAYMENT PLAN ACCEPTABLE TO THE DAMAGED PARTY WITH THE APPLICATION FOR BROADENING A LICENSE OR FOR FUTURE LICENSURE.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

7. QUALITY CHOICE CONSTRUCTION, WILLIAM NYLES ROSS LICENSE #44164 – DISCIPLINARY HEARING

Mr. Keith Gregory, counsel, was present on behalf of Quality Choice Construction. Mr. Dennis Larks, Quality Choice Construction; Mr. Brian Bugni, CFO, Mojave Electric, Inc.; and NSCB Investigator Mr. Ron Ramsey were sworn in.

The hearing was for possible violation of NRS 624.3012(2).

Mr. Gregory requested a continuance of this case, as Mr. Ross was unable to attend. Mr. Gregory informed the Board that counsel for Mojave Electric, Inc. had requested a preferential trial, which is set for March 26, 2002. Mr. Gregory requested the Board hear the matter after the decision in the court matter.

A copy of the Demand for Preferential Trial was entered into the record as Exhibit A and a copy of the Order was entered into the record as Exhibit B.

MR. CARSON MOVED TO CONTINUE THIS MATTER UNTIL AFTER THE MARCH 26, 2002, COURT DATE.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Ramsey informed the Board that Mr. Ross, owner of Quality Choice Construction, had not attended any of the scheduled meetings.

Mr. Gregory stated that Mr. Ross would attend the next meeting.

8. PAUL CURRY, LICENSE NOS. 20624 AND 37696 – DISCIPLINARY HEARING (CONTINUED FROM JULY 24, 2001 AND SEPTEMBER 25, 2001)

Mr. Paul Curry, Owner, Paul Curry and NSCB Investigator Mr. Ron Ramsey were sworn in.

Mr. Curry stated he had submitted a new financial statement in September 2001. He informed the Board that since the complaint of the Valihoras he has not received any offers of work and is currently working in a different line of work. Mr. Curry stated that his license

had been suspended due to the fact he didn't have funds to reinstate the bond on his license.

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO DISMISS THE CAUSE OF ACTION ON THE COMPLAINT DATED SEPTEMBER 18, 2001 AGAINST PAUL CURRY, LICENSE NOS. 20624 AND 37696.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO FIND PAUL CURRY, LICENSE NOS. 20624 AND 37696 IN VIOLATION OF THE 1ST CAUSE OF ACTION ON THE AMENDED COMPLAINT DATED MAY 7, 2001 AND TO DISMISS THE 2ND, 3RD, 4TH, AND 5TH CAUSES OF ACTION.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO PLACE A LETTER OF REPRIMAND IN THE FILE FOR ONE YEAR; LICENSE NOS. 20624 AND 37696 TO REMAIN SUSPENDED FOR ONE YEAR TO ALLOW PAUL CURRY THE OPPORTUNITY TO BECOME FINANCIALLY ABLE TO REINSTATE LICENSES; LICENSES WILL BE REVOKED IF NOT REINSTATED.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

8. AZTECH PLASTERING COMPANY, LICENSE #28600 – DISCIPLINARY HEARING

Mr. Tom Richard, Aztech Plastering; Ms. Carol Richard, Aztech Plastering; and NSCB Investigator Mr. Ron Ramsey were sworn in.

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

The Stipulation was entered into the record as Exhibit #2.

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).

Mr. Ramsey informed the Board that Aztech Plastering had hired another licensed contractor to complete the project. The work was completed before the Board's Notice to Correct had been sent in October of 2001. Mr. Ramsey concluded his testimony indicating he had spoken to the homeowners, the Valihoras, on October 30, 2001, and they are satisfied with the work.

MR. JOHNSON MOVED TO DISMISS ALL CHARGES AGAINST AZTECH PLASTERING, LICENSE #28600 AND TO DISMISS ALL CHARGES AGAINST AZTECH PLASTERING IN THE PAUL CURRY CASE.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

9. ARWOODS KITCHEN REFACING, ROBERT LEROY LOCKWOOD - LICENSE #31499 – DISCIPLINARY HEARING (CONTINUED FROM NOVEMBER 20, 2001)

Mr. Robert Lockwood, Owner, Arwoods Kitchen Refacing; Ms. Patricia Poling, Homeowner; Mr. and Mrs. Robert Burton, Homeowner; and NSCB Investigator Mr. Bob Macke were sworn in.

Mr. Macke testified that he had verified the Poling complaint as of 10:00 a.m. Tuesday, January 22, 2002. The cabinet tops were not bolted down. He stated that Ms. Poling and the Respondent might have resolved the complaint.

Ms. Poling informed the Board that the project was completed.

Mr. Macke noted the Burton complaint was transferred to him on July 25, 2001. He pointed out the Burtons had advised him they had removed all of the cabinets installed by Arwoods Kitchen and that Mrs. Burtons' brother installed the cabinets that are in their home now.

Mr. Macke stated that the Burtons informed him that they had waited until the fourteen days on the Notice to Correct had elapsed before having the kitchen cabinets taken out and re-installed.

Mrs. Burton stated the Respondent had started the work on March 12, 2001 and had last been on the job in May of 2001. She asserted that she had waited for the Notice to Correct to be complied with and when it wasn't she had her brother remove the cabinets.

Mr. Griffy requested that a copy of the registered letter from the Burtons to the Respondent, dated April 24, 2001, be entered into the record as Exhibit #3 and photographs taken by Mrs. Burton of the cabinets built by Arwoods Kitchen Refacing be entered into the record as Exhibit #4.

A copy of the civil court judgement was entered into the record as Exhibit #5.

Mr. Lockwood declared that he had called the Burtons and was told not to come back. He stated that he had only been on the job one day and informed the Board that the Burtons told him they were getting someone else to complete the project. He noted that he was taken to small claims court by the Burtons and lost. Mr. Lockwood asserted that the judge didn't want to hear what he had to say.

Mr. Macke testified that the Notice to Correct was issued in April 26, 2001, and the small claims case was filed on May 21, 2001.

Mr. Lockwood informed the Board that he had not paid the judgement against him because he was waiting for the outcome of this case.

The Burtons stated that the cabinets cost them only for the material since Mrs. Burton's brother installed them.

Mr. Reese, the Board's attorney, informed Mr. Lockwood that what the Board decides is entirely different from the civil judgement.

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO DISMISS THE 1ST CAUSE OF ACTION AND THE PORTION OF THE 3RD CAUSE OF ACTION REFERRING TO THE POLING COMPLAINT.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

MS. CAVIN MOVED TO DISMISS THE 2ND AND 4TH CAUSES OF ACTION AND FIND ARWOODS KITCHEN REFACING, LICENSE #31499, IN VIOLATION OF THE 5TH CAUSE OF ACTION.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

MS. CAVIN MOVED TO PLACE A LETTER OF REPRIMAND IN THE FILE FOR ONE YEAR.

MR. CLARK SECONDED THE MOTION.

THE MOTION CARRIED.

Mrs. Burton requested the return of the pictures that had been entered into the record as Exhibit #4.

10. JOHN TILTON – APPLICATION HEARING (C-31 – OVERHEAD DOORS)

Mr. John Tilton, Applicant; Ms. Tracy Greenlee, Licensing Analyst; and Ms. Cheryl Young, Criminal Investigator were sworn in.

The hearing was for possible violation of NRS 624.263; NRS 624.3013(2); NRS 624.265(1)(c).

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

The Stipulation was entered into the record as Exhibit #2.

Ms. Greenlee testified that the Applicant's financial statement did not support the license request. Additionally, the background investigation revealed a felony conviction that the Applicant had failed to disclose on the application.

Mr. Tilton testified that he hadn't been fully aware of all his liabilities. The new financial statement listed everything. Mr. Tilton informed the Board that his wife had consolidated several of their credit card balances and he thought they were paid.

MR. CARSON MOVED TO APPROVE JOHN TILTON, LICENSE CLASSIFICATION (C-31 OVERHEAD DOORS) WITH A MONETARY LIMIT OF \$5,000 AND A BOND OF \$5,000 WITH A FINANCIAL STATEMENT UPON RENEWAL.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.**11. CONSTRUCTION UNLIMITED, INC. d/b/a MONUMENT CONSTRUCTION, LICENSE NOS. 46423, 46616 AND 46617 – DISCIPLINARY HEARING**

Ms. Kristin Lane, President, Monument Construction; Mr. Pat Nixon, Monument Construction; Ms. Tina Kearney, Homeowner; Mr. James Beard, Homeowner; NSCB Investigator Mr. Spencer Kinney; NSCB Investigator Mr. Troy Beaver; NSCB Investigator Mr. Tom Lawrence; NSCB Investigative Supervisor Mr. Greg Mincheff were sworn in.

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

The Stipulation was entered into the record as Exhibit #2.

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

Mr. Beard testified that he had entered into a contract with the Respondent for the construction of a room addition at his residence. He stated that he noticed the roof leaking around January of 2001, approximately eleven months after the completion of the room addition. He maintained that he spoke to the Respondent's wife and told her about the roof leaking. Mr. Beard stated that he personally had tried to stop the leaks and called his insurance company about the leaks and was told to notify the Respondent. Mr. Beard continued with his testimony, noting that the Respondent only came to his home when the Board investigator was there. Mr. Beard informed the Board that the City of Las Vegas Building Department inspected the roof and found a building code violation. He pointed out when the Respondent failed to comply with the Notice to Correct, he contracted with Arlie's Roofing Service to reroof the entire house.

Mr. Macke noted Mr. Linc Dante had been the original investigator on the Beard complaint. Mr. Macke stated that a Notice to Correct had been issued on March 12, 2001 and that Mr. Beard had entered into a roofing contract with Arlie's Roofing to do the repairs on the roof. He pointed out that when he and Investigator Lawrence met with Mr. Pat Nixon to look at the Beard's new roof, Mr. Nixon admitted that he had not responded to the Notice to Correct.

Mr. Lawrence testified that when he was assigned the case the roof had already been repaired and he took pictures of the new roof.

Mr. Macke informed the Board that the City of Las Vegas Building Department had issued a building code violation.

Mr. Beard testified that the contract with the Respondent included a five-year warranty, but when he brought this to the attention of the Respondent he was told the installers of the air conditioner were at fault.

Mr. Skrinjaric, attorney for the Respondent, questioned Mr. Beard. Mr. Beard testified that the person who installed the air conditioner had died. He reiterated that Monument Construction did not install the air conditioner. Mr. Beard noted that the air conditioner was installed after the roof installation. He stated that his wife had pulled the permits for the room addition. Mr. Beard further testified that there was no roof penetration from the air conditioning unit.

Mr. Skrinjaric questioned Mr. Macke. Mr. Macke testified that he was not present at the original investigation of the complaint.

Mr. Skrinjaric questioned Mr. Lawrence. Mr. Lawrence testified that he had verified the fact that another contractor had reinstalled the roof. Mr. Lawrence established that he had not been present at the original investigation. Mr. Lawrence indicated he took the photographs of the existing roof by standing on a stepladder on the side of the house.

Mr. Nixon testified that he had been involved with the Beard project. He declared that he had attended the original meeting at the Beard's home with Mr. Dante and the roof had been inspected and the roof leak was found to be at the air conditioner at the time. Mr. Nixon testified that the legs were fastened by nails through an anchor bolt through the roof. Mr. Nixon noted that he felt Monument was not responsible for the leak and that is why Monument did not respond to the Notice to Correct. Mr. Nixon testified that Investigator Dante agreed that the leaking was probably from the air conditioning unit. He asserted that the inspection on the roof was done one year after the completion of the room addition. Mr. Nixon maintained the homeowner had put plastic on the roof. Mr. Nixon stated that he had traced the water line to see where the leak was coming from and could only speculate where it was coming from. Mr. Nixon stated that at that time he was willing to fix the leak.

Mr. Skrinjaric questioned Mr. Nixon. Mr. Nixon testified that Monument wouldn't come back to the Beard's home because he felt it would be admitting guilt and that the Beard's could take Monument to civil court and sue them. Mr. Nixon stated that Investigator Dante told this to him at the meeting he attended at the Beard's home on March 9, 2001. Mr. Nixon further testified that when he examined the roof there was no flashing or tar to protect the nails in the roof by the air conditioner.

Mr. Beard testified that he did not remember mentioning suing the Respondent. Mr. Beard further testified that he had place the plastic on the roof but it would not fit around the air conditioner. Mr. Beard stated that when the roof was inspected it appeared the water was seeping under the shingles and into the house where the new addition was added.

Ms. Kearney testified that she had contracted with the Respondent for the construction of a concrete patio and patio cover. She stated that the terms of the contract were for an initial payment of \$2,000 and \$100 a month for six months. Ms. Kearney stated she has not paid the Respondent because she wasn't happy with the work. Ms. Kearney pointed out that there is a crack in the concrete and that the concrete patio is 80% pitted. Ms. Kearney further testified that the Respondent has not corrected any of the items on the Notice to Correct.

Mr. Kinney noted that he had taken over the case from Mr. Dante. Mr. Kinney testified that after the Notice to Correct had been issued, the Respondent had called and told him he had an access problem.

Ms. Kearney testified that at the meeting at her home with the investigator present, she asked Mr. Nixon to leave. Another representative from Monument attended a second visit.

Mr. Beaver testified that at the second meeting, Paul Schulz was present for Monument Construction. At this meeting, Ms. Kearney stated that the patio cover had been installed without a permit and Mr. Schulz agreed. Mr. Beaver stated that the project commenced July of 2000 and the permit was pulled August of 2001. Mr. Beaver testified that the contract with Ms. Kearney did not contain the Respondent's monetary limit. Mr. Beaver verified that he had taken the pictures of the patio.

Mr. Skrinjaric questioned Ms. Kearney. Ms. Kearney testified that the contract with Monument called for \$2,000 down, however, Mr. Nixon told her she did not have to pay until she was happy with the work. Ms. Kearney verified that Monument Construction is suing her in small claims court. Ms. Kearney testified that the patio cover and concrete had originally failed to pass inspection but had passed on the second inspection. Ms. Kearney stated that she would like the concrete corrected and the center post removed and once the post is removed she would like the hole fixed.

Mr. Kinney testified that the contract did not contain any mention of the patio containing two or three posts.

Ms. Kearney testified that she would pay the Respondent what the concrete was worth once the crack in the patio is fixed. Ms. Kearney also testified that she should have a structure with two posts and not the structure she ended up with.

Mr. Beaver testified that he had requested a copy of the manufacturer specifications for the patio cover but one was not received.

The Board requested the Respondent to furnish the specifications.

The evidentiary portion of the hearing was closed.

MR. SCHAEFER MOVED TO FIND CONSTRUCTION UNLIMITED, INC. D/B/A MONUMENT CONSTRUCTION, LICENSE NOS. 46423, 46616 AND 46617, IN VIOLATION OF THE 1ST, 2ND, 3RD AND 4TH CAUSES OF ACTION.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. JOHNSON MOVED TO DISMISS THE 5TH, 6TH AND 7TH CAUSES OF ACTION.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. SCHAEFER MOVED TO FIND CONSTRUCTION UNLIMITED, INC. D/B/A MONUMENT CONSTRUCTION, LICENSE NOS. 46423, 46616 AND 46617, IN VIOLATION OF THE 8TH AND 9TH CAUSES.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. SCHAEFER MOVED TO FINE CONSTRUCTION UNLIMITED, INC. D/B/A MONUMENT CONSTRUCTION, LICENSE NOS. 46423, 46616 AND 46617, \$250.00 PER VIOLATION; A LETTER OF REPRIMAND BE PLACED IN THE FILE FOR ONE YEAR; AND TO RECOVER INVESTIGATIVE COSTS OF \$2,719.00 WITHIN 90 DAYS.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

12. PUBLIC COMMENT

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

13. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Chairman Zech at 4:55 p.m.

Respectfully Submitted,

Melinda Mertz, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Michael Zech, Chairman