

JIM GIBBONS
Governor

STATE OF NEVADA



MEMBERS

Kevin E. Burke, Chairman
Thomas "Jim" Alexander
Donald L. Drake
Nathaniel W. Hodgson, III
William "Bruce" King
Stephen P. Quinn
Guy M. Wells

STATE CONTRACTORS BOARD

MINUTES OF THE MEETING November 17, 2010

REPLY TO:

Southern Nevada
2310 Corporate Circle
Suite 200
Henderson, Nevada 89074
(702) 486-1100
Fax (702) 486-1190
Investigations (702) 486-1110

www.nscb.state.nv.us

Northern Nevada
9670 Gateway Drive, Suite 100
Reno, Nevada 89521
(775) 688-1141
Fax (775) 688-1271
Investigations (775) 688-1150

CALL TO ORDER:

Hearing Officer King called the meeting of the State Contractors Board to order at 8:30 a.m., Wednesday, November 17, 2010, 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. Bruce King, Hearing Officer
Mr. Jim Alexander, Board Member
Mr. Donald Drake, Board Member
Mr. Stephen Quinn, Board Member

STAFF MEMBERS PRESENT:

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

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 November 10, 2010, 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: BRUCE KING

1. DISCIPLINARY HEARING: (Continued from September 22, 2010, October 20, 2010)

A. A. C. A., LLC, dba MR. ROOTER PLUMBING, License No. 73696

Licensee was present with counsel, Duane Frizell, Esq.

John Akloian, Managing Member and Scott Hartwell, Manager from A. A. C. A., LLC, dba Mr. Rooter Plumbing were present.

The following Agency Exhibits were entered:

Exhibit 1 – Board's Hearing File.

The following Respondent's Exhibits were entered:

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

Exhibit B – Respondent's First Supplemental Exhibit List.

Exhibit C – Respondent's Second Supplemental Exhibit List.

Exhibit D – Respondent's Third Supplemental Exhibit List.

Hearing Officer King found Respondent guilty of one (1) violation of NRS 624.3016(1) a contractor states that service, parts, equipment or repairs are needed and actually are not needed; one (1) violation of NRS 624.3011(1)(b)(1) willful disregard of the building laws of the State; 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. Respondent was assessed a fine of \$1,000.00 for the First Cause of Action; a fine of \$1,500.00 for the Second Cause of Action; a fine of \$500.00 for the Third Cause of Action for total fines of \$3,000.00 and investigative costs of \$3,358.00. The Fourth Cause of Action was dismissed. Fines and costs are to be paid within one hundred and twenty (120) days of the November 17, 2010 Board Hearing or license number 73696, A. A. C. A., LLC, dba Mr. Rooter Plumbing will be suspended.

2. DISCIPLINARY HEARING: (Continued from September 22, 2010, October 20, 2010)

THE GOOD WATER COMPANY, dba DIAMOND WATER PURIFICATION, License No. 53772

Licensee was present with counsel, John Hunt, Esq.

One witness testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board's Hearing File.

The following Respondent's Exhibits were entered:

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

Exhibit B – A copy of Respondent's building permit for the Fine residence.

Exhibit C – A copy of Respondent's Certificate of Business: Fictitious Firm Name.

Exhibit D – A copy of Respondent's Application for Change in Business Name.

Exhibit E – A copy of a signed statement from Thomas Cartwright dated September 14, 2010.

Exhibit F – A copy of an Inspection Correction Notice from the City of North Las Vegas Building Department for the Fine residence.

Exhibit G – A letter to the Board from Paul R. Wassgren, Esq. dated August 5, 2010.

Exhibit H – A copy of Respondent's Residential Construction Recovery Fund notice.

Exhibit I – A copy of Respondent's Rescission Notice.

Exhibit J – A copy of Respondent's Customer Order Form.

Exhibit K – Respondent's compiled financial statement dated December 31, 2009.

Exhibit L – Respondent's bank verification form.

Exhibit M – Respondent's Profit and Loss for January through August 2010.

Hearing Officer King 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 (1) 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 624.3011(1)(b)(1) willful disregard of the building laws of the State. Respondent was assessed a fine of \$500.00 for the First and Second Causes of Action; a fine of \$100.00 for the Third Cause of Action; a fine of \$2,000.00 for the Fourth Cause of Action for total fines of \$3,100.00 and investigative costs of \$3,158.00. The Fifth and Sixth Causes of Action were dismissed. Fines and costs are due within ninety (90) days of the November 17, 2010 Board Hearing. Board shall accept the voluntary surrender of the license once the fines and costs are paid.

3. DISCIPLINARY HEARING:

CHARLES FRANCIS O'NEILL, Owner, dba A SHADE BETTER, License No. 57520

Licensee was present.

Three witnesses testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board's Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's Answer to the Board's Complaint dated August 15, 2010.

Hearing Officer Quinn 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 (1) 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. Respondent was assessed a fine of \$350.00 for the First Cause of Action; a fine of \$250.00 for the Second Cause of Action; a fine of \$100.00 for the Third Cause of Action; a fine of \$150.00 for the Fifth Cause of Action; a fine of \$500.00 for the Sixth Cause of Action for total fines of \$1,350.00 and investigative costs of \$1,507.00. The Fourth Cause of Action was dismissed. Fines and costs are due within one hundred and twenty (120) days of the November 17, 2010 Board Hearing or license number 57520, Charles Francis O'Neill, Owner, dba A Shade Better will be revoked. License number 57520 is suspended until a current financial statement with bank verification form for all cash accounts is provided that supports the license limit.

4. DISCIPLINARY HEARING:

JOHN DANIEL TANNER, OWNER, dba JOHN DANIEL TANNER, License Nos. 24409A, 38322

WESTERN SINGLE PLY, License Nos. 33367, 33396

PACIFIC BUILDERS, INC., dba NEVADA PACIFIC ROOFING, License No. 72036

Licensee was present with counsel, Brian Whitaker, Esq. and Justin Hepworth, Esq.

George Kalb, President, Dean Shepurdson, Director of Operations, and Regina Gomez from Kalb Construction were present.

One witness testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board's Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's Answer to the Board's Complaint dated October 13, 2010.

Hearing Officer Quinn dismissed the Board's Complaint against John Daniel Tanner, dba John Daniel Tanner, license numbers 24409A and 38322, Western Single Ply, license numbers 33367 and 33396 and Pacific Builders, Inc., dba Nevada Pacific Roofing, license number 72036. The First and Second Causes of Action are barred pursuant to provisions of NRS 624.331(2). The Third and Fourth Causes of Action were dismissed. Respondent provided a financial statement that supported a license limit of \$7,000,000.00. The Licensee agreed in writing to lowering his license limit to this amount.

5. DISCIPLINARY HEARING: (Stipulated Revocation)

FOCUS ONE CONSTRUCTION, INC., dba FOCUS ONE GROUP, License No. 67832

Licensee was not present.

One witness testified for the Board.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing file.

Exhibit 2 – A copy of check number 97 drawn on U.S. Bank payable to the Respondent in the amount of \$2,600.00.

Hearing Officer Quinn found Respondent 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 624.302(1)(a) contracting or submitting a bid if license has been suspended or revoked; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$1,000.00 for the First Cause of Action; a fine for \$500.00 for each of the Second and Third Causes of Action for total fines of \$2,000.00 and investigative costs of \$1,251.00. License number 67832, Focus One Construction, Inc., dba Focus One Group 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.

a. MICHAEL PAUL GEBBIA, OWNER, dba R A M GROUP, License No. 72815

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Quinn found Respondent Michael Paul Gebbia, Owner, dba R A M Group, license number 72815 in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Gebbia was found guilty of one (1) violation of NRS 624.3015(1) acting beyond scope of license; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(6) each licensee shall ascertain that each person whose bid on a construction project the licensee considers is appropriately licensed; one (1) violation of NRS 624.3015(4) knowingly entering into a contract with a contractor while that contractor is not licensed; one (1) violation of NRS 624.3015(2) bidding in excess of the limit placed on the license by the Board; one (1) violation of NRS 624.302(1)(a) contracting or submitting a bid if license has been suspended or revoked; 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; 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 fine of \$1,000.00 for the First Cause of Action; a fine of \$250.00 for the Second Cause of Action; a fine of \$500.00 for each of the Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action for total fines of \$4,250.00 and investigative costs in the amount of \$1,294.00. License number 72815 is revoked. Respondent is 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. BEAUTY WITH PAVERS, LLC, License No. 55901

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Quinn found Respondent Beauty With Pavers, LLC, license number 55901 in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Aguilera was found guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$500.00 for the First Cause of Action and investigative costs in the amount of \$1,228.00. License number 55901 is revoked. Respondent is 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. A. D. G., INC., License No. 56305

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Quinn found Respondent A. D. G., Inc., license number 56305 in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Ms. Ortells was found guilty of one (1) violation of NRS 624.3015(1) acting beyond scope of license; one (1) 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(3) failure to notify Board of change of address or personnel; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$1,000.00 for the First Cause of Action; a fine of \$100.00 for the Second Cause of Action; a fine of \$500.00 for each of the Third and Fourth Causes of Action for total fines of \$2,100.00 and investigative costs in the amount of \$1,385.00. License number 56205 is revoked. Respondent is 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. TRIPLE 777 STEEL, INC., License No. 70682

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Quinn found Respondent Triple 777 Steel, Inc., license number 70682, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Lyons was found guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$500.00 for the First Cause of Action and investigative costs in the amount of \$1,307.00. License number 70682 is revoked. Respondent is 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. Respondent is 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. S. O. S. REPAIR, LLC, License No. 68034

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Quinn found Respondent S. O. S. Repair, LLC, license number 68034, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Ms. Fuller was found guilty of one (1) violation of NRS 624.3016(2) a conviction in this State or any other jurisdiction of a felony related to the practice of a contractor or a crime involving moral turpitude; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$2,000.00 for the First Cause of Action and \$500.00 for the Second Cause of Action for total fines of \$2,500.00 and investigative costs in the amount of \$1,202.00. License number 68034 was revoked. Respondent is 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 Quinn at 10:47 a.m.

Respectfully Submitted,

Janet Brinkley, Recording Secretary

APPROVED:

Margi A. Grein, Executive Officer

Bruce King, Hearing Officer

Stephen P. Quinn, Hearing Officer