

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

KIM W. GREGORY
Chairman
DOUG CARSON
DENNIS K. JOHNSON
JOHN LINDELL
DENNIS F. NELSON
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH



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STATE CONTRACTORS' BOARD

MINUTES OF THE MEETING
OCTOBER 27, 1999

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 8:36 a.m., Wednesday, October 27, 1999, State Contractors' Board, Las Vegas, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Kim Gregory – Chairman
Mr. Doug Carson (Arrived at 10:08 a.m.)
Mr. Dennis Johnson
Mr. John Lindell
Mr. Dennis Nelson
Ms. Deborah Sheltra
Mr. Michael Zech

BOARD MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. Robert Griffy, Legal Counsel (Haney, Woloson & Mullins)
Mr. Hal Taylor, Legal Counsel
Ms. Nancy Mathias, Licensing Administrator
Mr. George Lyford, Director of Special Investigations Unit
Mr. Rick Bertuzzi, Director of Investigations
Ms. Pat Potter, Licensing Supervisor
Mr. Linc Dante', Investigator
Mr. Bob Macke, Investigator
Mr. Greg Mincheff, Investigator
Mr. Ron Ramsey, Investigator
Ms. Betty Wills, Recording Secretary

OTHERS PRESENT:

Cari Inkenbrandt, Court Reporter, CSR Associates of Nevada; Keith Gregory, Legal Counsel representing; D L C General Contracting Inc., Polaris Painting Inc., and California Design and Construction LLC; Michael Kerry, Member, California Design and Construction LLC; Jeffrey D. Smith, President, Cambridge Commercial & Industrial; Kevin E. Chernock, Project Manager, Cambridge Commercial & Industrial; Mike Mushkin, Legal Counsel for Cambridge Commercial & Industrial; Ted Burke, President, B & K Construction & Development Inc.; Toni Ono, Complainant; Kevin Lee Robinson, Owner, Kevco Construction & Design; and Gary F. Barton, Owner, Designer Rugs Plus.

Ms. Grein stated that Loyd Mead, NSCB Investigator, had posted the agenda in compliance with the open meeting law on October 20, 1999, 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, Las Vegas and Reno, and on the Board's Internet web site.

A motion was made, seconded, and carried to close the meeting to the public. The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

APPLICATIONS (Continued from the October 26, 1999 Board Meeting)

D L C GENERAL CONTRACTING INC #47069 (B2 – Residential & Small Commercial)
FINANCIAL REVIEW UPON RENEWAL

Attorney Keith Gregory appeared on behalf of Danny Lee Cates, President, D L C General Contracting Inc. Mr. Gregory was informed the renewal application had been approved.

POLARIS PAINTING INC (C4A – Painting) NEW APPLICATION, RECONSIDERATION

The license application had been denied on April 13, 1999 for lack of financial responsibility. The financial data was the same.

Attorney Keith Gregory appearing on behalf of Jeffery Jongsma, President, Polaris Painting Inc., told the Board that there had been concern regarding a previous license Polaris held wherein they had lost the qualified employee. He said he believed he had addressed those issues.

Attorney Gregory noted there had been an outstanding claim for moneys owing that had been filed by Picerne Construction Corp, but the matter had been voluntarily withdrawn. Ms. Talley, Licensing Analyst, had requested a letter from Picerne but Attorney Gregory had not been able to reach the individual who had filed the complaint. He was no longer with the company and the company had refused to provide Attorney Gregory with a letter. They did indicate to Attorney Gregory that there was no money owing complaint for Picerne. Additionally, Attorney Gregory had contacted the bonding company and learned they had paid out a claim on the bond, but they had never made a claim for reimbursement. Attorney Gregory said if it was a problem, his client would reimburse the bonding company.

The civil judgment was being paid in the amount of \$100 a month and the applicant was current on the payments.

MR. ZECH MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$150,000, A \$20,000 BOND, A FINANCIAL REVIEW UPON RENEWAL, AND CONDITIONED UPON THE BONDING COMPANY BEING REIMBURSED WITHIN 30 DAYS FOR THE CLAIM IT HAD PAID.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

CALIFORNIA DESIGN AND CONSTRUCTION LLC # 48146 – RAISE IN LIMIT

Michael Kerry, Member, California Design and Construction LLC, was present along with Attorney Keith Gregory.

Attorney Gregory was informed the raise in limit had been approved for \$5 million and a \$30,000 bond.

The remainder of the applications on the agenda were reviewed and discussion occurred

on the following: Nos. #103, 106, 114, 118-119, 122, 125, and 129. On the amended agenda: Nos. 9, 15, 18-19, 23-24, 25-27, and 31-32.

MR. JOHNSON MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

MR. JOHNSON MOVED TO RATIFY ALL APPLICATIONS NOT DISCUSSED IN CLOSED SESSION PER STAFF RECOMMENDATION.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

CAMBRIDGE COMMERCIAL & INDUSTRIAL #41426 – DISCIPLINARY HEARING

Jeffrey D. Smith, President, Cambridge Commercial & Industrial, Kevin E. Chernock, Project Manager, Bob Macke, Board Investigator, were sworn in. Mike Mushkin, Legal Counsel for Cambridge Commercial & Industrial, was identified.

The notice of hearing, dated September 24, 1999, consisting of pages 1-55, had been sent certified mail. The return receipt was dated September 28, 1999.

The hearing was for possible violation of NRS 624.3014 (2) (a), with the intent to evade the provisions of this chapter: aiding or abetting an unlicensed person to evade the provisions of this chapter; NRS 624.3014 (2) (b), with the intent to evade the provisions of this chapter, combining or conspiring with an unlicensed person to perform an unauthorized act; NRS 624.3015 (2), bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the board, 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; and NRS 624.3013 (5), as set forth in NAC 624.640 (5), failure in any material respect to comply with the provisions of this chapter or the regulations of the board.

Ms. Grein added that there had been an enforcement advisory committee meeting on June 10, 1999, which had met to evaluate the complaint. The committee recommended the matter for a disciplinary hearing. The hearing file was entered into the record as EXHIBIT 1, and the stipulation was signed.

Mr. Taylor stated that based upon his previous discussions with Mr. Mushkin, Mr. Taylor believed the licensee was prepared to stipulate to the charges as alleged.

Mr. Mushkin made a statement on behalf of his client wherein he explained that his client was not contracting with outside third parties to construct buildings. He was exclusively building office warehouse product for himself. Having been previously licensed in California, the licensee mistakenly believed he could exceed his monetary limit because he was not contracting with a third party. Regarding the other two violations, in one of the cases, the secretary did not notice that the license number was a California license number rather than a Nevada license number. The stucco contract had a Nevada license number on it, but a copy of the license reflected that the license number belonged to Pacific Sun Construction Corp., license #45789. Mr. Mushkin was unable to explain why. Nonetheless, Bodey Construction had taken over all of the existing contracts and had completed them. The licensee had submitted an application for a raise in limit.

Chairman Gregory explained the risk of acting without a license in the state of Nevada.

The evidentiary was closed.

MR. ZECH MOVED TO FIND LICENSE #41426, CAMBRIDGE COMMERCIAL & INDUSTRIAL INC., IN VIOLATION OF ALL CHARGES AS STIPULATED.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

MR. ZECH MOVED TO PLACE A PERMANENT LETTER OF REPRIMAND IN THE LICENSE FILE OF CAMBRIDGE COMMERCIAL & INDUSTRIAL INC., AND TO RECOVER THE INVESTIGATIVE COST OF \$2,552.97, TO BE PAID WITHIN 30 DAYS OR THE LICENSE WAS TO AUTOMATICALLY SUSPEND.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

EXECUTIVE SESSION

ANNUAL AUDIT REPORT 06/30/99

MR. NELSON MOVED TO ACCEPT THE ANNUAL AUDIT REPORT.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

QUARTERLY REPORT 4/01/99-06/30/99

MR. JOHNSON MOVED TO APPROVE THE QUARTERLY REPORT.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

UNFINISHED BUSINESS

STRATEGIC PLANNING

1. RESIDENTIAL RECOVERY FUND

Ms. Grein informed the Board that, after receipt of the Attorney General's (AG) letter, dated August 25, 1999, she had informed the AG's office that the Board did not have a definition of a residential contractor. She had asked for guidance with respect to the recovery fund assessments, since the definition of residential contractor would not become law until 2001. She was advised by the AG's office that the definition may possibly be relied upon even though it was not law until July 1, 2001. Mr. Johnson said that if that information was confirmed in writing by the AG, he would be willing to consider this further. Ms. Sheltra concurred. More discussion followed regarding the Board's responsibility to write the suggested regulations, with suggestions from Ms. Grein as to how to model the definition of a residential contractor.

PEAK PROPERTIES INC. #38348 – DISCIPLINARY HEARING

Neither Erick Ryan Babin, President, Peak Properties Inc., nor legal counsel was present.

The notice of hearing, dated August 18, 1999, consisting of pages 1-23, had been sent certified mail. Service had been effected on August 31, 1999 as evidenced by the return receipt.

A notice of continued hearing had been sent certified mail on September 27, 1999. The return receipt was dated October 5, 1999.

The hearing was for possible 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 law or regulations of the board by failing to comply with the notice to correct. The notice of hearing was entered into the record as EXHIBIT 1, and the proof of service was entered into the record as EXHIBIT 2.

Bob Macke, NSCB Investigator, said Peak Properties was no longer in the state. This was true of the complainant also. The complainant had leased the property. When asked if the repairs had been corrected, Mr. Macke said no, they had not been corrected as of the middle of September.

The license had suspended for no bond on May 1, 1999, and had expired on August 31, 1999.

MS. SHELTRA MOVED TO ACCEPT THE FILE AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

MR. ZECH MOVED TO FIND LICENSE #38348, PEAK PROPERTIES INC., IN VIOLATION OF ALL CHARGES.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED.

MS. SHELTRA MOVED TO REVOKE LICENSE #38348, PEAK PROPERTIES INC., AND TO RECOVER THE INVESTIGATIVE COST OF \$1,267.18 SHOULD THE LICENSEE EVER REAPPLY FOR LICENSURE.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

DOMES CONSTRUCTION #40103 – EMERGENCY SUMMARY SUSPENSION

Mr. Lyford told the board that another complaint had been received against Domes Construction two days ago. When Mr. Rupe had appeared the previous day for his hearing, he had been interviewed thereafter by Mr. Lyford regarding the new complaint. During the interview, Mr. Rupe advised that he was dissatisfied with the actions of the Contractor's Board, and may file bankruptcy and not renew his contractor's license.

MS. SHELTRA MOVED TO SUMMARILY SUSPEND LICENSE #40103, DOMES CONSTRUCTION, BASED ON THE INFORMATION PROVIDED BY MR.

LYFORD.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

DISCIPLINARY HEARINGS

B & K CONSTRUCTION & DEVELOPMENT INC. #29009 & #30621 – DISCIPLINARY HEARING (Continued from September 23, 1999)

Ted Burke, President, B & K Construction & Development Inc., Carmen Caruso, Board Investigator, and Bob Macke, Board Investigator, were sworn in.

The complainant, Toni Ono, was not present as the hearing commenced.

The notice of hearing, dated August 18, 1999, consisting of pages 1-25, had been sent certified mail. The return receipt was dated August 23, 1999.

The notice of continued hearing had been sent certified mail on September 27, 1999. The return receipt dated 9/28/99.

The hearing was for possible violation of NRS 624.3017 (1), substandard workmanship; and NRS 624.3013 (5), as set forth in and NAC 624.700 (3) (a), failure to comply with law or regulations of the board. The hearing notice was entered into the record as EXHIBIT 1.

The current status of both licenses was inactive, not renewed. License #29009 had expired on June 30, 1999, and license #30621 had expired on May 31, 1998.

The stipulation was signed.

Mr. Taylor asked Mr. Caruso to explain the project.

Mr. Caruso said the homeowner had gotten a low yield loan from the City of Las Vegas to remodel her home. Previous complaint issues had been resolved but the item currently being addressed was the lack of airflow in 2 bedrooms on the west side of the house. A notice to correct had been issued, but, to date, no correction had occurred. In an effort to resolve the issues, the corrections had been paid for by the City.

Toni Ono, Homeowner arrived and was sworn in.

Mr. Taylor recapped what had occurred to this point in the hearing. He entered the previous complaint information, six items that had been resolved by the city, into the record as EXHIBIT 2.

Mr. Gregory asked why the city had corrected the six items. Mr. Caruso said it was because B & K Construction did not respond to the order to correct issued by the City.

Ms. Ono testified that the City only corrected certain items. She maintained there were quite a number of items still needing correction.

Page 9 of the hearing notice was identified as the list Investigator Caruso had worked off of.

Mr. Carson arrived at 10:08 a.m.

Mr. Caruso said a notice to correct had been sent involving six items. All had been corrected by the City. There had been an addendum regarding the airflow in the ducts to

the 2 bedrooms and a second notice to correct had been issued. Mr. Caruso confirmed all the items had been corrected by the city with the exception of the air conditioning.

Ms Ono disagreed.

Mr. Burke described what had occurred during a 2-year period with this neighborhood program. He said there had been pages of issues that needed to be resolved, not only the six that had been addressed. Due to a particular incident, which had occurred during one inspection, the City of Las Vegas and B & K Construction were now involved in litigation against Mrs. Ono. Mr. Burke said it was his belief that if he were to go to the job site, there would be further alleged injuries. He had been advised by counsel to not appear at the job site until the case was resolved. Mr. Burke noted that he had called Mr. Caruso to inform him of that fact.

When questioned about not renewing his licenses, Mr. Burke said he was through with construction.

Mr. Caruso said he had not personally received Mr. Burke's call or any correspondence regarding Mr. Burke's reply to the notice to correct.

When asked if he wished to surrender his licenses, Mr. Burke answered in the affirmative.

MR. JOHNSON MOVED TO ACCEPT THE SURRENDER OF LICENSE #29009 AND #30621, B & K CONSTRUCTION AND DEVELOPMENT INC.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Nelson advised Mrs. Ono to file against the contractor's bonds.

KEVCO CONSTRUCTION & DESIGN #30505 - DISCIPLINARY HEARING (Continued from September 23, 1999)

Kevin Lee Robinson, Owner, was present as well as Bob Macke, NSCB Investigator.

Mr. Taylor recapped what had been the Board's directive in the last hearing by reading from the minutes of September 23, 1999.

Mr. Macke testified that he had received a phone call from Mrs. Schyman on October 26, 1999 indicating that Kevco had resolved all of the issues with the Schymans and that the Schymans were satisfied with the results.

Mr. Robinson detailed what he had done to correct the issues. He said the cracks had been fixed, and that the Schymans did not want the house painted.

Mr. Gregory said the motion of the September 23, 1999 meeting was to hold the matter in abeyance and to dismiss the charges based upon a fair resolution of the matter within the next 30 days. He said the matter had been resolved correctly, therefore, the charges were dismissed.

CHEROKEE BUILDERS #44801 – SUMMARY SUSPENSION HEARING

CONTINENTAL ELECTRIC COMPANY #30028

Greg Mincheff, Board Investigator, informed the board the complaint had been instituted by Mr. Reed, Homeowner, regarding a garage, which was a self standing structure intended to be inhabited by Mr. Reed in some form or fashion. The job site, in Amargosa

Valley, had been inspected in August, 1999 by Mr. Mincheff and Loyd Mead, Investigator. Although noticed, the licensee failed to appear at the job site. It was Mr. Mincheff's opinion that the building needed to be torn down because it was a threat to public safety.

The license had a B2 classification. It was active through July 31, 2000. The monetary limit was \$250,000, and it had been issued on July 1, 1997. The address of record indicated the office was in Pahrump.

MS. SHELTRA MOVED TO SUMMARILY SUSPEND LICENSE #44801, CHEROKEE BUILDERS.

MR. JOHNSON SECONDED THE MOTION.

Mr. Gregory questioned if license #30028 should also be included in the motion. The record showed that the license had been voluntarily surrendered in 1992.

THE MOTION CARRIED.

DESIGNER RUGS PLUS #43526 - DISCIPLINARY HEARING (Continued from June 22, 1999, August 24, 1999, & September 23, 1999)

Gary F. Barton, Owner, Designer Rugs Plus, was present.

Greg Mincheff, Investigator, told the Board that as of October 26, 1999, Mr. Ortega, Complainant, confirmed that the wood flooring had been replaced and the matter completed to his satisfaction.

Mr. Barton stated he believed that there was a complaint to repair the carpeting. He had made an appointment with Mrs. Ortega to inspect and repair the problems but when he arrived he learned Mrs. Ortega wanted the carpet replaced.

Mr. Mincheff testified there were only two items validated on the carpet issue. The corrective order referenced re-stretching the carpet, and two areas had a minor seam, maybe an inch or two, pulling apart.

Mr. Mincheff was asked if he had been back to the property since validating the items. Mr. Mincheff replied no, not since Mr. Barton had been there.

Mr. Gregory pointed out that if the items the Board asked Mr. Barton to correct had been corrected, then the matter was closed.

Mr. Barton said Mrs. Ortega would not allow him to correct the areas she had shown him, adding he could have fixed the items within 15 minutes had he have been allowed to.

Mr. Mincheff was asked to re-inspect the carpet, and facilitate correction of any valid items. If Mrs. Ortega was not interested in having the valid items corrected by the Licensee, Mr. Mincheff was asked to inform Mrs. Ortega that the Board could do nothing more regarding the carpet issue.

Mr. Barton commented that he had contacted the manufacturer, who was going to inspect the carpet a second time to verify whether or not there was a defect in the carpet.

Mr. Mincheff was asked to report back to the Board at the next Las Vegas meeting.

PUBLIC COMMENT

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

There being no further business to come before the Board, the meeting was adjourned by Chairman Gregory at 11:39 a.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman