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STATE CONTRACTORS BOARD

MINUTES OF THE MEETING November 29, 2004

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

1. CALL TO ORDER:

Adjudicating Board Member J. Brian Scroggins called the meeting of the State Contractors Board to order at 8:30 a.m., Monday, November 29, 2004, State Contractors Board, Henderson, and Reno Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

ADJUDICATING BOARD MEMBER:

Mr. J. Brian Scroggins

OTHER BOARD MEMBER PRESENT:

Mr. Jerry Higgins

STAFF MEMBERS PRESENT:

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

LEGAL COUNSEL PRESENT:

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

ADJUDICATING BOARD MEMBER: J. BRIAN SCROGGINS

1. DISCIPLINARY HEARING:

UNIQUE TILE & MARBLE, INC., (LICENSE NO. 55583)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found respondent Unique Tile & Marble, Inc., Roland R. Kosser, President, license number 55583 guilty of violation of NRS 624.3012(3) failure to obtain release of lien recorded against the property improved upon; NRS 624.3015(2) bidding to contract for a sum for one construction contract or project in excess of the limit placed on the license by the Board; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; NRS 624.302(5) failure to cooperate in an investigation; 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, the number of his license and monetary limit placed upon his license; NRS 624.3013(3) failure to establish financial responsibility, NRS 624.302(6) failure to comply with a written request from the Board for information or records. License number 55583, Unique Tile & Marble, Inc., was Revoked.

2. DISCIPLINARY HEARING:**ROCKWOOD DEVELOPMENT CORP.**, (LICENSE NOS. 50217 and 50218)

Licensee was present with Counsel Thomas Pitaro, Esq. and John Momot, Esq.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

The following Respondent Exhibits were entered:

Exhibit A – Packet of documents provided by Counsel on behalf of Rockwood Development Corp.

Letter from Pat Higgins to Ms. Clark dated June 8, 2004.

Financial statement in the name of Sun Ridge Villas, LLC dated December 31, 2003.

Appraisal of the Sun Ridge Villas Condominium Complex dated February 13, 2004.

Bank Verification in the name of Sun Ridge Villas, LLC dated May 20, 2004.

Corporate Indemnification document for the Sun Ridge Villas Project executed by Rockwood Development, Corp. dated June 2, 2004.

Hearing Officer Scroggins found Respondent Rockwood Development Corp., Joyce B. Geller, President, license numbers 50217 and 50218 guilty of violation of NRS 624.3016(1) any fraudulent or deceitful act committed in the capacity of a contractor, including misrepresentation or omission of a material fact; NRS 624.3013(3) failure to establish financial responsibility. Ms. Joyce B. Geller was assessed a fine of \$2,500.00 for the First Cause of Action and \$500.00 for the Fourth Cause of Action for a total fine of \$3,000.00. The Second and Third Causes of Action were dismissed. Investigative costs were assessed in the amount of \$1,461.00. Ms. Joyce B. Geller is to furnish a current financial statement prepared by a Certified Public Accountant. Fines and Costs are to be paid and financial statement is to be furnished within 60 days from November 29, 2004. Rockwood Development Corp., license numbers 50217 and 50218 will be Revoked and placed on probationary status for the period of one year. The Respondent is ordered to submit to a Business Review within 60 days from November 29, 2004. The result of the Business Review will be presented to the Executive Officer. The respondent will be provided a billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative cost will result in the Suspension of the license.

3. DISCIPLINARY HEARING:

DARBY NEAGLE ENTERPRISES, (LICENSE NO. 45040

DARBY NEAGLE ENTERPRISES, (LICENSE NO. 46603

WESTERN PACIFIC CONTRACTORS, (LICENSE NO. 53199)

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from Las Vegas Paving to the Board dated October 13, 2004.

Letter from Steel Engineers to the Board dated October 13, 2004.

Letter from Nevada Ready Mix to Darby Neagle dated September 2, 2004.

Hearing Officer Scroggins found Respondent Darby Neagle, dba Darby Neagle Enterprises, license number 45040, Darby Neagle Enterprises, Darby J. Neagle, President, license number 46603 and Western Pacific Contractors, Darby J. Neagle, President, license number 53199 guilty of violation of NRS 624.302(5) failure to cooperate in an investigation; Three (3) violations of NRS 624.3012(2) failure to pay for materials or services rendered; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records;

NRS 624.3013(5), as set forth in NAC 624.640(3) if any change occurs in a licensee's address or personnel which affects the accuracy of the statements in the application upon which his license is based, he shall report the change in writing to the Board within 30 days after the change occurs; NRS 624.3018(2) association of any act or omission constituting a cause for disciplinary action. Mr. Neagle was assessed a fine of \$200.00 for the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action for a total fine of \$1,6000.00. Investigative costs were assessed in the amount of \$4,022.00. Mr. Neagle is to furnish a current financial statement for each license prepared by a Certified Public Accountant. Fines and Costs are to be paid and financial statement is to be furnished within 180 days from November 29, 2004 or license numbers 45040, Darby Neagle Enterprises, 46603, Darby Neagle Enterprises and 53199, Western Pacific Contractors will automatically be Revoked. License numbers 45040, 46603 and 53199 will be suspended until all financial statements are received.

4. DISCIPLINARY HEARING – DEFAULT ORDERS:

a. TAGGART CONSTRUCTION, (LICENSE NO. 47458)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found Respondent, Raymond R. Taggart, dba Taggart Construction, license number 47458 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Taggart was found guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with a Notice to Correct; NRS 624.301(2) abandonment of a construction project; NRS 624.301(4) willful failure to prosecute a construction project or operation with reasonable diligence, thereby causing material injury to another; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3014(2)(a)(b)(c)(d) aiding or abetting an unlicensed person; combining or conspiring with an unlicensed person to perform an unauthorized act; allowing a license to be used by an unlicensed person; acting as agent, partner or associate of an unlicensed person; NRS 624.305(1)(2) no license may be used for any purpose by any person other than the person to whom such license is issued, and no license may be assigned, transferred or otherwise disposed of to permit the unauthorized use thereof; the license of any person who violates any provision of this section shall be automatically cancelled and revoked; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or of any political subdivision thereof. License number 47458, Raymond R. Taggart, dba Taggart Construction was Revoked. Mr. Taggart is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,819.00 and any expenses that may be paid out of the Residential Recovery Fund.

b. LUCKIER ROOFING, (LICENSE NO. 50952)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found Respondent George Sarmiento, dba Luckier Roofing, license number 50952 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Sarmiento was found guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with a Notice to Correct; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(3) failure to

establish financial responsibility; Two (2) violations of NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3015(3) knowingly entering into a contract with a contractor while that contractor is not licensed, or for work in excess of his limit or beyond the scope of his license; NRS 624.302(3)(a)(b) failure to pay an administrative fine within 30 days after receiving notice or the final administrative or judicial decision, whichever occurs later; NRS 624.3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids, the number of his license and monetary limit placed upon his license; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner. License number 50952, George Sarmiento, dba Luckier Roofing was Revoked. Mr. Sarmiento is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,574.00 and any expenses that may be paid out of the Residential Recovery Fund.

c. PARKS AND SON PLUMBING, (LICENSE NO. 46886)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found Respondent Douglas D. Parks, dba Parks and Sons Plumbing, license number 46886 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Parks was found guilty of violation of NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3016(1) any fraudulent or deceitful act committed in the capacity of a contractor, including misrepresentation or the omission of a material fact; NRS 624.302(1)(a) contracting, offering to contract if the contractor's license has been suspended or revoked; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(4) failure to keep in force the bond or cash deposit for the full period required by the Board; NRS 624.3013(5), as set forth in NAC 624.640(5) failure to notify the Board of changes in address or personnel within 30 days after the change occurs. License number 46886, Douglas D. Parks, dba Parks and Sons Plumbing was Revoked. Mr. Parks is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$2,243.00 and any expenses that may be paid out of the Residential Recovery Fund.

d. J A VAY & SONS, INC., (LICENSE NO. 52716)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found Respondent J A Vay & Sons, Inc., David E. Aegerter, President, license number 52716 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Aegerter was found guilty of violation of NRS 624.3012(2) failure to pay for materials or services rendered; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify the Board of changes in address or personnel within 30 days after the change occurs. License number 52716, J A Vay & Sons, Inc., was Revoked. Mr. Aegerter is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,047.00 and any expenses that may be paid out of the Residential Recovery Fund.

e. PRO-SCAPE, (LICENSE NO. 39066)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Scroggins found Respondent Pro-Scape, Melanie Orme, President, license number 39066 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Ms. Orme was found guilty of violation of NRS 624.3015(1) acting in the capacity of a contractor beyond the scope of the license; NRS 624.302(2) failure to comply with written citation within the time permitted; NRS 624.302(3)(a) failure to pay an administrative fine within 30 days after receiving notice of the imposition of the fine; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3012(3) failure to obtain the discharge or release of any lien recorded against the property improved upon; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund; NRS 624.3013(3), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contracts he enters into the number of his license and the monetary limit placed upon his license; NRS 624.3016(5) failure to comply with any regulations of the Board governing contracts for the construction of residential pools and spas. License number 39066, Pro-Scape was Revoked. Ms. Orme is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,416.00 and any expenses that may be paid out of the Residential Recovery fund.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Adjudicating Board Member Scroggins at 9:52 a.m.

Respectfully Submitted,

Traci Greenlee, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

J. Brian Scroggins, Adjudicating Board Member