

JIM GIBBONS
Governor

STATE OF NEVADA



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Michael Efstratis
John C. Ellison
Jerry Higgins
Nathaniel W. Hodgson, III
William "Bruce" King

STATE CONTRACTORS BOARD

MINUTES OF THE MEETING September 23, 2009

CALL TO ORDER:

Hearing Officer Hodgson called the meeting of the State Contractors Board to order at 8:30 a.m., Wednesday, September 23, 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. Nathaniel Hodgson, Chairman
Mr. Jerry Higgins

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. George Lyford, Director of Investigations
Mr. Daniel Hammack, Chief of Enforcement
Mr. Chris Denning, Deputy 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 September 17, 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: NATHANIEL HODGSON

1. DISCIPLINARY HEARING:

MOAS ENTERPRISES, INC., LICENSE NO. 45878

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Memorandum of Understanding dated May 7, 2009 between the Respondent and Western Roofing.

Exhibit 3 – A letter from Western Roofing and Painting dated July 9, 2009 regarding the Board's Complaint.

Exhibit 4 – A letter from Western Roofing and Painting dated August 25, 2009 with attachments.

Exhibit 5 – Copies in regards to pertinent portions of the plans regarding Building A.

Exhibit 6 – Copies in regards to pertinent portions of the plans regarding Building B.

Exhibit 7 – Respondent's subcontract agreement with Western Roofing and Painting.

The following Respondents Exhibits were entered:

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

Hearing Officer Hodgson 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 624.3011(1)(a) willful disregard of plans or specifications without the consent of the owner; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(5); one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine \$50.00 for each of the Second and Fourth Causes of Action, a fine of \$500.00 for the each of the First, Third and Fifth Causes of Action and investigative costs in the amount of \$2,754.00. Respondent must pay fines and costs and provide a current financial statement that supports the license limit within sixty (60) days of the September 23, 2009 Board Hearing or license number 45878, Moas Enterprises, Inc., will be revoked.

2. DISCIPLINARY HEARING:

ATLAS CONSTRUCTION, LTD, LICENSE NO. 53500

Licensee was present with counsel, Thomas Michaelides, Esq.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File

The following Respondent's Exhibits were entered:

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

Hearing Officer Hodgson found Respondent guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. No fine was assessed for the First Cause of Action; the Second Cause of Action was dismissed. Investigative costs were assessed at \$2,151.00 to be paid within thirty (30) days of the September 23, 2009 Board Hearing or license number 53500, Atlas Construction, Ltd, shall be suspended. The Respondent stipulated to the reduction of the license limit to \$600,000.00.

3. DISCIPLINARY HEARING: (Stipulated Revocations)

a. CELIS BUILDING SYSTEMS, INC., LICENSE NO. 51263

INTREPID IRON, INC., LICENSE NO. 67084

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's letter stipulating to the revocation of his license dated August 12, 2009.

Hearing Officer Hodgson found Respondent guilty of one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board; one (1) violation of NRS 624.3013(4) failure to keep bond in force; 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 \$1,000.00 and investigative costs of \$1,174.00. License number 51263, Celis Building Systems, Inc., and license number 67083, Intrepid Iron, Inc. were 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.

4. DISCIPLINARY HEARING – DEFAULT ORDERS

a. FOCUS ONE MECHANICAL, LLC, LICENSE NO. 71679

FOCUS ONE CONSTRUCTION, INC., dba FOCUS ONE GROUP, LICENSE NO. 67832

FOCUS ONE ELECTRIC, LLC, LICENSE NO. 71163

FOCUS ONE PLUMBING, LLC, LICENSE NO. 71357

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson granted a continuance of thirty (30) days of the September 23, 2009 Board Hearing for the Respondent to provide a current financial statement that supports the license limit. License number 67832, Focus One Construction, Inc., dba Focus One Group is suspended.

b. PHILIP JOSEPH PIZZOLATO, dba PHILIP PIZZOLATO, LICENSE NO. 59784

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Philip Joseph Pizzolato, dba Philip Pizzolato, license number 59784, Philip Joseph Pizzolato, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Pizzolato 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 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(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$2,500.00 for the First, Second Third and Fourth Causes of Action and investigative costs in the amount of \$1,395.00. License number 59784, Philip Joseph Pizzolato, dba Philip Pizzolato, 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. R. J. S. LANDSCAPING, LLC, LICENSE NO. 53489

Licensee was present.

Kris Ballard, Esq. was present representing the homeowners.

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson granted a continuance of thirty (30) days of the September 23, 2009 Board Hearing. License number 53489, R. J. S. Landscaping, LLC is suspended.

d. BROOKSTONE LANDSCAPE, INC., LICENSE NUMBER 55662

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Brookstone Landscape, Inc., license number 55662, Barry Andrew Potomski, President and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Potomski was found guilty of 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(5) failure in any material respect to comply with the provisions of the Board. Respondent was assessed a total fine of \$1,000.00 for the First and Second Causes of Action and investigative costs in the amount of \$1,261.00. License number 55662, Brookstone Landscape, 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.

e. DAVID PAUL MOORE, dba DAVE MOORE CONSTRUCTION, LICENSE NO. 62280

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent David Paul Moore, dba Dave Moore Construction, license number 62280, David Paul Moore, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Moore was found guilty of one (1) violation of NRS 624.302(2) failure to comply with a written citation from the Board; one (1) violation of NRS 624.3013(4) failure to keep bond in force. Respondent was assessed a total fine of \$1,000.00 for the First and Second Causes of Action and investigative costs in the amount of \$1,063.00. License number 62280, David Paul Moore, dba Dave Moore 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.

f. SCOTT GREIG, dba APACHE CONTRACTING, LICENSE NO. 44438

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Scott Greig, dba Apache Contracting, license number 44438, Scott Greig, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Greig 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 \$500.00 for the First Cause of Action and investigative costs in the amount of \$1,092.00. License number 44438, Scott Greig, dba Apache Contracting 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.

g. MG PLUMBING, LLC, LICENSE NO. 68573

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent MG Plumbing, LLC, license number 68573, Jose Montoya, Member and Juan Manuel Gonzalez, Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Montoya and Mr. Gonzalez were found guilty of 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. Respondent was assessed a total fine of \$1,000.00 and investigative costs in the amount of \$1,726.00. License number 68573, MG Plumbing, 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. MILLENNIUM CONSTRUCTION, INC., dba MCI, LICENSE NO. 68863

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Millennium Construction, Inc., dba MCI, license number 68863, Rick Wayne Rainey, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Rainey was found 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 \$1,500.00 and investigative costs in the amount of \$1,527.00. License number 68863, Millennium Construction, Inc., dba MCI 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.

i. RICHNER AIR CONDITIONING, REFRIGERATION AND HEATING, INC. LICENSE NO. 26725

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Richner Air Conditioning, Refrigeration and Heating, Inc., license number 26725, Larry Ray Richner, President and Qualified Individual, in default and adopted

the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Richner was found guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3016(1) any fraudulent act committed in the capacity of a contractor, misrepresentation or omission of a fact; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$1,750.00 for the First, Second and Third Causes of Action and investigative costs in the amount of \$1,568.00. License number 66973, Pro Construction Corporation and license numbers 47525A, 59562A and 26725, Richner Air Conditioning, Refrigeration and Heating, 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.

j. CONCRETE ART, INC., LICENSE NO. 67718

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson granted a continuance of thirty (30) days of the September 23, 2009 Board Hearing for the Respondent to provide a current financial statement. License number 67718, Concrete Art, Inc. is suspended.

k. PATRICK MICHAEL McEVOY, dba CONSOLIDATED MECHANICAL CONTRACTORS, LICENSE NO. 58812

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – Respondent's letter stipulating to the revocation of his license dated September 22, 2009.

Hearing Officer Hodgson found Respondent Patrick Michael McEvoy, dba Consolidated Mechanical Contractors, license number 58812, Patrick Michael McEvoy, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. McEvoy 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 \$1,624.00. License number 58812, Patrick Michael McEvoy, dba Consolidated Mechanical Contractors 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.

l. EAGLE AIR CONDITIONING, INC., LICENSE NO 36779

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

This matter was continued to the next Disciplinary Hearing in Reno on October 7, 2009.

m. GIBFORD CONSTRUCTION, INC., LICENSE NOS. 45562, 62271

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Hodgson found Respondent Gibford Construction, Inc., license numbers 45562, 62271, Tom Merlin Gibford, President and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Gibford was found guilty of two (2) violations of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3017(1) substandard workmanship; two (2) violations 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; 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 license and any monetary limit placed upon his license; one (1) violation of NRS 624.3016(5), as set forth in NRS 624.600 failure to comply with NRS 624.600; one (1) violation of NRS 624.3012(3) failure to obtain the discharge or release of any lien recorded against the property; 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 624.3011(1)(b)(4) willful disregard of the industrial insurance laws of the State; 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; 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 fine of \$6,600.00 and investigative costs in the amount of \$2,597.00. License numbers 45562, 62271, Gibford Construction, 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.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Hodgson at 10:48 a.m.

Respectfully Submitted,

Janet Brinkley, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Nathaniel Hodgson, Hearing Officer