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STATE OF NEVADA

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STATE CONTRACTORS BOARD

**MINUTES OF THE MEETING
May 24, 2005**

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

CALL TO ORDER:

Board Member Spiridon Filios called the meeting of the State Contractors Board to order at 8:30 a.m., Tuesday, May 24, 2005, 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. Spiridon Filios
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. Bruce Robb, Esq., Legal Counsel
Ms. Laura Browning, Esq., Legal Counsel

Mr. Lyford stated Investigator Greg Welch posted the agenda in compliance with the open meeting law on May 18, 2005, 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: SPIRIDON FILIOS

1. DISCIPLINARY HEARING:

POOL, INC., DBA WORLDMARK POOLS & SPAS, LICENSE NO. 56570
WEST COAST POOL & SPA, LICENSE NO. 24532
WORLDMARK, INC., LICENSE NOS. 44153, 46201
UNIQUE ENVIRONMENTS, INC., LICENSE NOS. 53715, 53716, 53717

Licensee was present with Counsel Robert J. Kossack, Esq.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter to Pool, Inc., dba Worldmark Pools & Spas from Nancy Degregorio dated February 8, 2005. The following Respondent Exhibits were entered:

Exhibit A – Documents prepared by Respondent's Counsel on behalf of Pool, Inc., dba Worldmark Pools &

Spas.

Respondent's answer to complaint.

Purchase agreements for the sale of Pool, Inc. by Jack Coskey to Donald Sakowski.

Hearing Officer Filios found Respondent Pool, Inc., dba Worldmark Pools & Spas, Donald F. Sakowski, President, Jack Coskey, Qualified Employee, license number 56570 in violation of NRS 624.301(4) willful failure or refusal to prosecute a construction project with reasonable diligence, thereby causing material injury to another; NRS 624.3016(5), as set forth in NAC 624.719(2)(d) and NAC 624.6958(2)(d) failure to provide estimated date of completion of all work to be performed pursuant to the contract; NRS 624.3016(5), as set forth in NRS 597.719(2)(h) and NAC 624.6958(2)(i) failure to provide disclosures required under NRS 624.600 to the owner; NRS 624.3016(5), as set forth in NRS 597.719(3)(b)(1) failure to include notice stating the owner may contact the Board if assistance is needed to clarify provisions of the contract; NRS 624.3016(5), as set forth in NRS 597.719(3)(b)(2) and NAC 624.6958(2)(l) failure to provide notice stating the owner has the right to request a bond for payment and performance; NRS 624.3016(5), as set forth in NRS 624.597.719(2)(k) and NAC 624.6958(2)(m) failure to provide schedule of payments that meet requirements of NAC 624.6964; NRS 624.3016(5), as set forth in NRS 624.6958(3) failure to provide signature of contractor or person named on the license on the contract; NRS 624.3016(5), as set forth in NAC 624.6964(1) failure to provide schedule of payments for amount of work or services to be performed and any equipment to be supplied; NRS 624.3016(5), as set forth in NAC 624.6964(3) requiring a schedule of payments in excess of the amount allowed by law; NRS 624.3016(5), as set forth in NRS 597.716(5) failure to provide written statement explaining the rights of the customer; NRS 624.3016(5), as set forth in NRS 624.600 name license number, business address and telephone number of all subcontractors and person whom furnish material to be used on the project; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3016(1) any fraudulent or deceitful act committed in the capacity of a contractor, including, without limitation, misrepresentation or the omission of a material fact; NRS 624.3016(7) misrepresentation or the omission of a material fact, or the omission of any other fraudulent or deceitful act to obtain a license; NRS 624.3013(5), per NRS 624.260(3)(4) the natural person qualifying on behalf of another natural person must prove he is a bona fide member or employee of that person when his principal or employer is actively engaged as a contractor shall exercise authority in connection with his principal or employer's contracting business in the following manner; to make technical and administrative decisions; to hire, superintendent, promote, transfer lay off, discipline other employees; to devote himself solely to his principal or employer's business and not to take any other employment which would conflict with his duties; a natural person may not qualify on behalf of another for more than one active license unless one person owns at least 25 percent of each licensee for which he qualifies or one licensee owns at least 25 percent of the other licensee. Mr. Sakowski was assessed a fine of \$500.00 for the First, Fourteenth and Seventeenth Causes of Action, a fine of \$250.00 for the Twelfth and Sixteenth Causes of Action, a fine of \$100.00 for the Thirteen Cause of Action and a fine of \$50.00 for the Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Eighteenth Causes of Action for a total fine of \$2,600.00. The Fifth Cause of Action was dismissed. Investigative costs were assessed in the amount of \$3,921.00. The fine of \$50.00 for the Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Causes of Action is conditioned on Mr. Sakowski providing a proper contract to Investigator Welch within 30 days from May 24, 2005. If a proper contract is not provided to Investigator Welch within 30 days the fine will be raised to \$500.00 per Cause of Action. Mr. Sakowski must take the Construction Management Survey exam within 60 days from May 24, 2005. Fines and costs are to be paid within 60 days from May 24, 2005 or license number 56570, Pool, Inc., dba Worldmark Pools & Spas will automatically be Revoked. The Respondent is ordered to submit to a Business Review within 60 days from May 24, 2005. 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.

2. DISCIPLINARY HEARING:**REBEL ROOFING**, LICENSE NO. 48523

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Third addendum to Notice to Correct dated April 19, 2004.

Exhibit 3 – Photographs taken by Investigator Welch on March 25, 2005.

Exhibit 4 – Two (2) estimates for repair of the roof at the Michaelson residence.

Exhibit 5 – Two (2) estimates for repair of the drywall at the Michaelson residence.

Exhibit 6 – Copies of checks reflecting payment from Ms. Michaelson to the subcontractors.

Hearing Officer Filios found Respondent Rebel Roofing, Joey Rothstein, President, license number 48523 in 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 the Board's Notice to Correct; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3015(1) acting in the capacity of a contractor beyond the scope of the license; 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 624.3013(5), as set forth NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner. Mr. Rothstein was assessed a fine of \$100.00 for the Second and Seventh Causes of Action and a fine of \$250.00 for the Third, Fourth, Sixth and Eighth Causes of Action for a total fine of \$1,200.00. The Ninth Cause of Action was dismissed. Investigative costs were assessed in the amount of \$2,134.00. Mr. Rothstein was ordered to pay restitution to Ms. Michaelson in the amount of \$3,769.00 for repair of the drywall and Mr. Rothstein must either repair the roof at the Michaelson residence or pay restitution to Ms. Michaelson in the amount of \$5,350.00 for repair of the roof by another contractor. Fines, costs and restitution shall be paid within 60 days from May 24, 2005 or license number 48523, Rebel Roofing will automatically be Revoked. Mr. Rothstein was ordered to furnish a financial statement prepared by a Certified Public Accountant within 14 days from May 24, 2005 or license number 48523, Rebel Roofing will automatically be Revoked. The Respondent is ordered to submit to a Business Review within 60 days from May 24, 2005. 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 costs will result in the Suspension of the license.

3. DISCIPLINARY HEARING:**JENSEN CONCRETE, INC.**, LICENSE NO. 40513

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Jensen Concrete, Inc., David W. Jensen, President, license number 40513 in 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 624.302(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. Mr. Jensen was assessed a fine of \$250.00 for the First, Second, Third and Fourth Causes of Action for a total fine of \$1,000.00. Investigative costs

were assessed in the amount of \$1,475.00. Mr. Jensen was ordered to pay restitution to Rinker Materials in the amount of \$8,340.60. Fines, costs and restitution shall be paid within 30 days from May 24, 2005 or license number 40513, Jensen Concrete, Inc. will automatically be Revoked.

4. DISCIPLINARY HEARING:

T C M CONSTRUCTION, DBA CORNERSTONE ROOFING, CO., LICENSE NO. 55659

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – Photographs taken by Investigator Easton on March 14, 2005.

Exhibit 3 – List of expenses to repair the Grear residence.

Hearing Officer Filios found Respondent T C M Construction, dba Cornerstone Roofing, Co., Travis R. McCormick, President, license number 55659 in 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 the Board's Notice to Correct; 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; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; 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 his license and monetary limit placed upon his license. Mr. McCormick was assessed a fine of \$250.00 for the Fourth Cause of Action, a fine of \$100.00 for the Fifth Cause of Action and a fine of \$50.00 for the Sixth Cause of Action for a total fine of \$400.00. The Second and Third Causes of Action were dismissed. Investigative costs were assessed in the amount of \$2,532.00. Mr. McCormick was ordered to pay restitution to Ms. Grear in the amount of \$5,363.50. Fines, costs and restitution shall be paid within 90 days from May 24, 2005 or license number 55659, T C M Construction, dba Cornerstone Roofing, Co. will automatically be Suspended.

5. DISCIPLINARY HEARING:

WEST COAST POOL & SPA, LICENSE NO. 24532

WORLDMARK, INC., LICENSE NO. 44153, 46201

UNIQUE ENVIRONMENTS, INC., LICENSE NO. 53715, 53716, 53717

POOL, INC., DBA WORLDMARK POOLS & SPAS, LICENSE NO. 56570

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Jack Coskey, dba West Coast Pool & Spa, license number 24532, Worldmark, Inc., Jack Coskey, President, license numbers 44153 and 46201 and Unique Environments, Inc., Jack Coskey, President, license numbers 53715, 53716 and 53717 in violation of NRS 624.3014(1)(a) acting in the capacity of a contractor under any license issued hereunder except in the name of the licensee as set forth upon the license; NRS 624.305(1) no license may be used for any purpose by any person other than the person to whom such license is issued; NRS 624.3016(7) misrepresentation; NRS 624.3013(5), as set forth in NAC 624.650(1) a licensee shall not permit his contracting business to be operated by an unlicensed or unqualified person; NRS 624.3014(2)(a)(b)(c)(d) with the intent to evade the provisions of this chapter; 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 624.3013(5), as set forth in NAC 624.640(3) failure to notify the Board of change of personnel or address within 30 days after the change occurs; 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 624.3018(2) association of any act or omission constituting a cause for disciplinary action. Mr. Coskey was assessed a fine of \$10,000.00 for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Causes of Action for a total fine of \$10,000.00. Investigative costs were assessed in the amount of \$3,961.00. Fines and costs are to be paid within 90 days from May 24, 2005 or license number 24532, Jack Coskey, dba West Coast Pool & Spa, license numbers 44153 and 46201, Worldmark, Inc, license numbers 53715, 53716 and 53717, Unique Environments, Inc. will automatically be Revoked. If the fines and costs are paid within 90 days voluntary surrender of the licenses will be accepted. Mr. Coskey must successfully complete the Construction Management Survey exam prior to consideration of future licensure.

6. DISCIPLINARY HEARING:

K M F CONSTRUCTION, INC., LICENSE NO. 50242, 53006

Licensee was present with Counsel Robert Bachman, Esq.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2- Photographs taken by Investigator Macke on August 10, 2004.

Exhibit 3 – Inspection report Desert Floor Inspections dated April 21, 2005.

The following Respondent Exhibits were entered:

Exhibit A – Documents prepared by Respondent's Counsel on behalf of K M F Construction, Inc.

Permits

Application for Raise in Limit and Financial Statement dated February 29, 2004.

Letter from K M F Construction, Inc. to the Contractors Board dated April 11, 2004.

Letter from K M F Construction, Inc. to the Contractors Board dated April 1, 2004.

Letter from Contractors Board to K M F Construction, Inc. dated November 18, 2004.

Financial statement dated September 30, 2004.

Unconditional lien release from Chris Fleck dated April 22, 2003.

Photographs taken by K M F Construction on May 2, 2003.

Hearing Officer Filios found Respondent K M F Construction, Inc., Kaiulani Frink, President, license numbers 50242 and 53306 in violation of NRS 3014(1)(a) acting in the capacity of a contractor under any license issued hereunder except in the name of the licensee as set forth upon the license; NRS 624.3015(1) acting in the capacity of a contractor beyond the scope of the license; NRS 624.3011(1)(a) willful and departure from or disregard of plans or specifications without consent of the owner; NRS 624.3018(2) association of any act or omission constituting a cause for disciplinary action. Ms. Frink was assessed a total fine of \$1,000.00 for the Fourth, Fifth, Sixth and Seventh Causes of Action. The First, Second and Third Causes of Action were dismissed. Investigative costs were assessed in the amount of \$1,958.00. Ms. Frink was ordered to pay restitution to Ms. Overton in the amount of \$3,750.00. Fines, costs and restitution shall be paid within 30 days from May 24, 2005 or license number 50242 will automatically be Suspended. A Permanent Letter of Reprimand will be placed in the Respondent's file for the Fifth Cause of Action.

6. DISCIPLINARY HEARING – DEFAULT ORDERS:

a. G E T ROOFING COMPANY, LICENSE NO. 50277

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Gilbert E. Garcia, dba G E T Roofing Company, license number 50277, in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Garcia was found guilty of Two (2) violations 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 the Board's Notice to Correct; Three (3) violations of NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3012(3) failure to obtain the discharge or release of any lien when sufficient money has been received as payment for the project; Two (2) violations of 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; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; 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 his license and monetary limit placed upon his license; NRS 624.3012(1) diversion of money; NRS 624.301(4) willful failure or refusal to prosecute a construction project 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. License number 50277, Gilbert E. Garcia, dba G E T Roofing Company was Revoked. Mr. Garcia was ordered to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$3,289.00 and any expenses that may be paid out of the Residential Recovery Fund.

b. SUNSTAR ROOFING, INC., LICENSE NO. 54134

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Sunstar Roofing, Inc., Norman R. Ishikawa, President, license number 54134, in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Ishikawa was found guilty of NRS 624.302(5) failure to cooperate in an investigation; 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(4) failure to keep in force the bond or cash deposit for the full period required by the Board. License number 54134, Sunstar Roofing, Inc. was Revoked. Mr. Ishikawa was ordered to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,119.00 and any expenses that may be paid out of the Residential Recovery Fund.

c. PRO TEC FIREPROOFING, INC., LICENSE NO. 46787

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Pro Tec Fireproofing, Inc., Joseph Turi, President, license number 46787, in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Turi was found guilty of NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the laws of this State regarding industrial insurance; 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(4) failure to keep in force the bond or cash deposit for the full period required by the Board. License number 46787, Pro Tec Fireproofing, Inc. was Revoked. Mr. Turi was ordered to pay full restitution to the damaged parties and reimburse the

Board for Investigative costs of \$1,176.00 and any expenses that may be paid out of the Residential Recovery Fund.

d. ALUMINUM FRAMER GLASS, INC., LICENSE NO. 56907

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Filios found Respondent Aluminum Framer Glass, Inc., Kiefer B. Bearden, President, license number 56907, in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Bearden was found guilty of Five (5) violations of NRS 624.3016(7) misrepresentation or the omission of a material fact or the commission of any other fraudulent or deceitful act to obtain a license. License number 56907, Aluminum Framer Glass, Inc. was Revoked. Mr. Bearden was ordered to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,299.00 and any expenses that may be paid out of the Residential Recovery Fund.

d. LOUIS FOSTER, LICENSE NO. 54969

Licensee was present with Counsel Dale B. Rycraft, Jr., Esq.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

This matter was continued to the July 20, 2005 Disciplinary Hearing.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Zech at 1:33 p.m.

Respectfully Submitted,

Traci Greenlee, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Spiridon Filios, Hearing Officer