

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

KIM W. GREGORY
Chairman
DOUG CARSON
MARGARAT CAVIN
DENNIS K. JOHNSON
RANDY SCHAEFER
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH



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STATE CONTRACTORS' BOARD

MINUTES OF THE MEETING MARCH 7, 2000

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 8:38 a.m., Tuesday, March 7, 2000, 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 8:40 a.m.)
Ms. Margaret Cavin
Mr. Dennis Johnson
Mr. Randy Schaefer
Ms. Deborah Sheltra
Mr. Mike 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. Bob Macke, Investigator
Mr. Greg Mincheff, Investigator
Mr. Ron Ramsey, Investigator
Mr. Tom Tucker, Investigator
Mr. Bruce Yarborough, Investigator
Ms. Betty Wills, Recording Secretary

OTHERS PRESENT:

Cari Inkenbrandt, Court Reporter, CSR Associates of Nevada; Clayton Charles Fleher, President, Hometown Builders, and Blake Franzman, Secretary/Treasurer, Hometown Builders; Eric Dobberstein, Legal Counsel, Hardin Concrete Company Inc.; Larry Aebischer, Owner, Pacific Installation and Service, Carol Aebischer, Wife and Associate, Pacific Installation and Service; Jeffrey Anderson, Manager, A N A Enterprises LLC; Lance Anderson, Member, ANA Enterprises LLC; Devin McDonald, President, D M C Electric Inc; Keith Gregory, Legal Counsel, Spring Mountain Ranch LLC, Haskew Engineering & Construction Inc., and V T Construction; Dean Friedli, Clark County Building Department; Brian Meehan, Vice President, Gothic Landscaping Inc.; Gary Greene, Representative, Department of Business & Industry; Complainants: Floyd Scotton, Grounds Manager,

Stratosphere Hotel & Casino; Anna Cruz, Kimberly Loper, All Star Transit Mix; and Albert Santos; Helen Palcynsky, Property Manager, Gramercy Park Apartments; Michael Little, Credit Manager, Ahern Rentals; Stratton Pang, Complainant; Daniel Berg, President, Vision Craft Homes Inc; Ted Parker, Legal Counsel in the Banich Complaint, Vision Craft Homes Inc; Mike Mushkin, Legal Counsel, Vision Craft Homes Inc; Richard Caleel, Legal Counsel representing the Baniches; Paul Georgeson, Legal Counsel, Northern Nevada Associated General Contractors; Tom Fallon, President, Pace Contracting; Bob Tibesar, President, Tibesar Construction; Jesse Paulk, Las Vegas Chapter AGC; Tony Mark, President, Fast Track Electric; Garth Frehner, President, Frehner Construction Company; and Joffre Johnson, General Counsel, Frehner Construction Company.

* * * * *

Ms. Grein stated that Linc Dante', Mike Perko, and Roy Schoonmaker, had posted the agenda in compliance with the open meeting law on March 1, 2000, 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.

It was learned there were 35 items on the amended agenda, each item of an emergency nature. In addition, there was a request for an advisory opinion from Gothic Landscapes; 2 items had been submitted by the Enforcement Advisory Committee: Lawns Plus and Solano Development Limited; item #12 on the agenda, Remington Homes, was continued due to an unexpected emergency, and there was a request for reconsideration from Robert V. Jones Corp.

MR. ZECH MOVED TO HEAR THE AMENDED AGENDA.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ENFORCEMENT ADVISORY COMMITTEE (Continued until later in the day)
EXECUTIVE SESSION (Continued)

Mr. Carson arrived at 8:40 a.m.

BOARD MEMBER APPOINTMENT

Chairman Gregory announced Governor Guinn's appointment of Randy Schaefer as a member to the Nevada State Contractors' Board. Mr. Gregory then swore in Mr. Schaefer as a new member of the Board.

APPLICATIONS

The following motion closed the meeting to the public.

MR. ZECH MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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).

STATEWIDE ROOFING #47269 (C15A – Roofing) 90-DAY EXTENSION, RECONSIDERATION

The 90-day extension to replace the qualifier had been denied on February 23, 2000, due to issues regarding pending complaints.

Robert Castle, Owner, Statewide Roofing, as reflected on the Sign-In Log, had been present at the start of the meeting. He was not present for the reconsideration of his request.

Ms. Mathias informed the Board that the complaint had been closed because Mr. Castle had turned the matter over to his bonding company. The complaint had since been reopened and was under investigation.

MR. CARSON MOVED TO APPROVE THE EXTENSION FOR 60-DAYS TO REPLACE THE QUALIFIER.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ROCKWOOD DEVELOPMENT CORP (B2 – Residential & Small Commercial) NEW APPLICATION**ROCKWOOD DEVELOPMENT CORP (C3 – Carpentry) NEW APPLICATION**

Steve Thomas, Qualified Employee, Rockwood Development Corp, was present. He was informed that both license applications had been approved with a limit of \$375,000 and a \$15,000 bond.

HOMETOWN BUILDERS (B2 – Residential & Small Commercial) NEW APPLICATION

Clayton Charles Fleher, President, Hometown Builders, and Blake Franzman, Secretary/Treasurer, Hometown Builders, were present.

On October 12, 1999, the application had been tabled for possible indemnification. At a later date the Indemnitor had decided not to indemnify the license.

Mr. Franzman noted that his financial circumstances had changed considerably since his last appearance before the Board.

MR. CARSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$100,000, A \$50,000 BOND, AND A FINANCIAL REVIEW UPON RENEWAL.

THE MOTION DIED DUE TO A LACK OF A SECOND.

MR. JOHNSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$100,000, A \$10,000 BOND, AND A FINANCIAL REVIEW UPON RENEWAL, CONTINGENT UPON INDEMNIFICATION, WHICH MET THE FINANCIAL REPRESENTATIONS MADE BY THE APPLICANT.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

HARDIN CONCRETE COMPANY INC. (C5 – Concrete Contracting) NEW APPLICATION

Eric Dobberstein, Legal Counsel, Hardin Concrete Company Inc., was present.

The application had been tabled on February 23, 2000 to resolve two money-owing complaints: McDougal and End Zone.

Ms. Potter stated that the board had received copies of checks indicating that the two complainants had been paid.

MR. JOHNSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$50,000, A \$10,000 BOND, AND A FINANCIAL REVIEW UPON RENEWAL.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

NEVADA FIRE PROTECTION #47249 (C41A – Automatic Fire Sprinklers) RAISE IN LIMIT, RECONSIDERATION

Terry Jo Pinnock-Blunt, Owner, Nevada Fire Protection, was present. She was notified that the license application had been approved with a limit of \$750,000 and a \$10,000 bond.

SOLANO DEVELOPMENT COMPANY LTD (B2 – Residential & Small Commercial) NEW APPLICATION.

Walter Stockman, Member, Solano Development Company LTD, was present.

MR. JOHNSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$ 3 MILLION AND A \$50,000 BOND.

MR. ZECH SECONDED THE MOTION.

In discussion, Mr. Lyford reported upon the status of the Arizona license.

THE MOTION CARRIED UNANIMOUSLY.

PACIFIC INSTALLATION AND SERVICE (C26B – Building Accessories and Specialties) NEW APPLICATION

Larry Aebischer, Owner, Pacific Installation and Service, was present, along with Carol Aebischer, Wife and Associate. Ms. Aebischer stated that some of the credit card debt had been paid.

Mr. Aebischer explained the type of work he intended to perform, stating that HubCore and Hilton were willing to contract with him if he acquired a license. Mr. Aebischer was currently living in California where he maintained an active contractor's license. He had been licensed only since July, 1999, but added he had worked in Nevada for 26 years.

Possible indemnification was then discussed, and the general consensus of the Board was to table the license application for 90-days for possible indemnification.

A N A ENTERPRISES LLC #47464 (A2, 7, 9, 12 – Highways; Excavating & Grading; Piers & Foundations; Excavate Grade Trench Surface) FINANCIAL REVIEW ON RENEWAL

Jeffrey Anderson, Manager, A N A Enterprises LLC, and Lance Anderson, Member, ANA Enterprises LLC, were present.

Jeffrey Anderson stated the financial statement was forthcoming, hopefully, at the end of the month. A preliminary had been provided.

The general consensus was to approve the license renewal, pending receipt of the financial statement within 60 days. If the financial statement was not provided or if it did not support the license limit, the matter was to be scheduled for a financial review before the Board.

D M C ELECTRIC INC #49463 (C2 – Electrical Contracting) ONE TIME RAISE IN LIMIT

Devin McDonald, President, D M C Electric Inc was present. When asked if he had been the low bidder on the state project, Mr. McDonald replied no. The Board suggested to Mr. McDonald that, because his license had been recently issued, if he intended to bid large projects such as the one submitted he provide a letter from the bonding company indicating that they would bond the project 100%, labor and performance bond. The one time raise in limit was then denied.

SPRING MOUNTAIN RANCH LLC (A – General Engineering) NEW APPLICATION, NAME SIMILARITY

Keith Gregory, Legal Counsel, Spring Mountain Ranch LLC, was present. He was notified that the license application had been approved with a limit of \$1 million and a \$30,000 bond, no name change was required.

HASKEW ENGINEERING & CONSTRUCTION INC #48421 (B – General Building) OFFICER CHANGE

HASKEW ENGINEERING & CONSTRUCTION INC #48422 (A – General Engineering) OFFICER CHANGE

Keith Gregory, Legal Counsel, Haskew Engineering & Construction Inc, was present.

Bruce Yarborough, NSCB Investigator, stated that all issues of concern had been resolved.

MR. ZECH MOVED TO APPROVE BOTH OFFICER CHANGES FOR HASKEW ENGINEERING & CONSTRUCTION INC, LICENSE #48421 AND #48422.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

V T CONSTRUCTION #40726 (A – General Engineering) RAISE IN LIMIT

Keith Gregory, Legal Counsel, was present. He was informed the raise in limit had been approved for \$3 million and a \$30,000 bond.

The remainder of the applications on the agenda was reviewed and discussion occurred on the following: Nos. 1-5, 7-11, 15, 18, 27, 29, 32, 38, 53, 58, 60-61, 65, 68-69, 73-74, 85, 90-91, 93, 97-100, 107, 109-111, 113-118, 123-126, and 128; and on the amended agenda: Nos. 4, 8, 12-13, 15-17, 19, and 32.

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

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ADVISORY OPINIONS

1. CITY OF LAS VEGAS. MANUFACTURED HOUSING

No one from the City of Las Vegas was present for the Advisory Opinion. For permit purposes, the city was asking who could legally prepare and set a state approved manufactured home on real property, and if it was legal for a B2 license holder (or better) to perform this type of work.

Ms. Grein stated there had been a joint meeting with Manufactured Housing the previous week in an attempt to resolve overlapping areas in the law. But some confusion remained regarding what a contractor could do on a manufactured or modular home. It had been determined that a contractor needed a state contractor's license and a license from State Manufactured Housing to perform work on a manufactured home.

Bob Macke, NSCB Investigator, described what caused the initial problem prompting the City to ask for an advisory opinion. The confusion emanated from a manufactured home or mobile home, which had been converted to real property. The general consensus was that because of the nature of the trades involved outside the box, the box being the mobile home itself, some of the counties were going to require a B2 permit to install or repair HUD units.

Discussion then followed regarding how inspections were performed on the homes built to UBC standards. Thereafter, Mr. Macke noted he had a tentative meeting with Clark County Building Department and Mr. Childress of Manufactured Housing.

Dean Friedli, Clark County Building Department, expressed his concerns, stating that Clark County was attempting to acquire general direction as to what scope of permits they should be issuing to licensed contractors, and what scope of permits they should be providing and issuing to manufactured home installers, describing how the issue was currently being handled.

Mr. Gregory explained that a B2 license holder was not precluded from performing the scope of work as represented, but the permitting authorities had the right to impose a more stringent requirement.

2. GOTHIC LANDSCAPING INC

Brian Meehan, Vice President, Gothic Landscaping Inc, was present for the advisory opinion. He explained that the corporation was in the process of acquiring a B license, but the company was desirous of bidding a project on March 8, 2000. Mr. Meehan asked if his current C10 license would allow him to bid the project if he subcontracted the restroom building to a properly licensed contractor. He was proposing to bid that portion of the work as incidental to the project at hand.

The Board opined that Gothic Landscaping could act as the prime contractor provided he hired a subcontractor to construct the restroom, perform the electrical, plumbing, paving, and any other work not specifically authorized in NAC 624.280.

Mr. Meehan was informed the one time raise in limit to bid Seastrand Park had been approved for \$3 million, payment and performance bonds if required.

3 DEPARTMENT OF BUSINESS & INDUSTRY, RECONSIDERATION OF 11/23/99
ADV. OPINION

Gary Greene, Representative, Department of Business & Industry, was present.

Ms. Grein recapped what the Board had opined on November 23, 1999, which was that a C1 and a C21 could install a boiler or pressure vessel. Mr. Greene was asking that the Board reconsider its opinion, particularly regarding the C21B classification.

Mr. Greene said there had been a lot of confusion over the C21B license for installing boilers versus a C1 or C1A license. The department was attempting to clarify the issue statewide. It was their opinion that the C1 or C1A was the only license allowed for installing boilers. That ruling had been put into the department's regulations, which had become effective since the November 23 meeting. Additionally, Mr. Greene noted there was nothing in the contractor test for the C21B license that included installation of boilers.

Mr. Gregory stated that the Board's opinion stood. He then provided Mr. Greene with the history of the two license classifications, adding that the permitting authority had the right to impose a more stringent requirement.

Mr. Greene suggested that the C21 exam be changed to include boiler installation questions. He asked if he could be involved in developing the testing process.

Ms. Mathias commented it would be appropriate to invite Mr. Greene to participate in the exam workshop, which was being scheduled.

DISCIPLINARY HEARINGS

COLOR CONCRETE CONCEPTS #38614 – DISCIPLINARY HEARING

The notice of hearing, consisting of pages 1-58, had been sent certified mail on February 8, 2000 to the address of record. The notice had been returned stamped "Undeliverable, commercial mail receiving agency, no authorization to receive mail for this addressee." Investigator Caruso had exhausted all resources for service. Additionally, the notice had been sent regular mail to the address of record, as well as to different addresses in California.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was performed; NRS 624.3013 (5), as set forth in NAC 624.700 (3) and NAC 624.640 (3) (5): failure to comply with the law or regulations of the board by failing to comply with the notice to correct; 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, and 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 any monetary limit placed upon his license; NRS 624.3012 (2) willful or deliberate failure by any licensee or agent or officer thereof to pay any money when due for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient money therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased, or the false denial of any such amount due or the validity of the claim thereof with intent to secure a discount upon such indebtedness or with intent to injure, delay or defraud the person to whom such indebtedness is due; and NRS 624.3013 (3) failure to establish financial responsibility; NRS 624.3016 (1) fraudulent or deceitful acts committed in the capacity of a contractor.

The hearing notice was entered into the record as [EXHIBIT 1](#).

Calvin Atwood Odell, Jr., President, Color Concrete Concepts, was not present, and there was no one present, including legal counsel, to represent the Licensee.

The license status was suspended for no bond as of January 1, 1999. No renewal attempt had been made.

NSCB Investigators: Bob Macke, Carmen Caruso, and Ron Ramsey were sworn in, as well as Complainants: Floyd Scotton, Grounds Manager, Stratosphere Hotel & Casino; Anna Cruz, Kimberly Loper, All Star Transit Mix; and Albert Santos.

Mr. Taylor questioned Mr. Scotton regarding the 1st cause of action. Mr. Scotton testified that a contract had been entered into with the Licensee to resurface a pool deck. The insurance company had made a partial payment on the repairs the Stratosphere had to undertake. The final repair paid to a different contractor amounted to \$18,500. The Stratosphere had received \$15,000 from the insurance company.

Mr. Ramsey testified notices to correct had been issued and ignored. Additionally, the Licensee had failed to include the monetary limit on the contracts.

Complainant Sandra Black was not present, but Mr. Macke testified that he had validated the allegations contained in the 4th cause of action. A notice to correct had been issued and it had been ignored.

Mr. Santos, who had made the trip from California to testify, stated that the Licensee had contracted to construct a concrete courtyard at a property he owned in Henderson. The Licensee had quoted Dr. Santos \$1,900 to perform the project, but due to an increase in the step height, Dr. Santos had paid the Licensee \$2,020, which Dr. Santos said was not a problem. In the construction of the courtyard, the Licensee was to move water piping before covering it with concrete. Subsequently, the piping began to leak. Mr. Odell, when contacted, agreed to fix the item if Dr. Santos acquired a plumber. Unfortunately, Mr. Odell never corrected the matter, and Dr. Santos had been unable to contact him again. The repair of the plumbing amounted to \$600, and the concrete was approximately \$200 more. The Plumbing Service, upon repair, had noted that the joint under the slab had been improperly glued, thereby causing it to blow apart.

Mr. Macke testified that the notice to correct regarding the Santos complaint had been ignored.

Anna Cruz testified that the Licensee was to construct a patio slab and a wrought iron fence, detailing the problems she had encountered with the installation. Ms. Cruz had paid the licensee in full, and the Licensee was supposed to pay All Star Transit Mix but did not. Subsequently, All Star advised Ms. Cruz they were going to place a lien on her property. Upon contacting the Licensee, the Licensee agreed he had been paid in full but, nonetheless, he failed to pay All Star. To avoid a lien on her property, Ms. Cruz had paid All Star \$1,198.

Ms. Loper testified that Ms. Cruz was not alone among homeowners in paying off debts to All Star to avoid liens, two other people had also done so as well: Arlene Franklin who had paid \$304.95, and David Gambel who paid \$389.48. Ms. Loper stated that the amount unpaid by the Licensee had amounted to \$3,177. Once the payment from the homeowners was subtracted, All Star was still owed a balance of \$1,389.15. Additionally, All Star had received one check from the Licensee, which had been returned from the bank for insufficient funds. The check had never been replaced.

Mr. Macke testified that all of the investigators had been involved in trying to locate the Licensee, who had moved without notifying the board.

Mr. Caruso confirmed that all documents had been requested on June 29, 1999 to establish financial responsibility, but none had been received.

The evidentiary was closed.

MR. CARSON MOVED TO ACCEPT THE TESTIMONY AND FILE OF LICENSE #38614, COLOR CONCRETE CONCEPTS, AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. CARSON MOVED TO FIND LICENSE #38614, COLOR CONCRETE CONCEPTS, IN VIOLATION OF ALL 15 CAUSES OF ACTION.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase

MR. CARSON MOVED TO REVOKE LICENSE #38614, COLOR CONCRETE CONCEPTS.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. CARSON MOVED THAT SHOULD THE LICENSEE EVER REAPPLY FOR LICENSURE IN THE STATE OF NEVADA, THAT FULL RESTITUTION BE MADE TO ALL INJURED PARTIES, PRIOR TO LICENSURE.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MS. SHELTRA MOVED TO IMPOSE THE RECOVERY OF THE INVESTIGATIVE COSTS OF \$4,128.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MICHAEL BRADLEY COMPANY #36753 – DISCIPLINARY HEARING

Daniel Mark Henderson, Owner, Michael Bradley Company, was not present, and there was no one present, including legal counsel, to represent the Licensee.

Helen Palcynsky, Property Manager, Gramercy Parc Apartments, and Ron Ramsey, NSCB Investigator, were sworn in.

The notice of hearing, which consisted of pages 1-15, had been mailed, certified on February 8, 2000. Service was effected on February 9, 2000.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was

performed, NRS 624.3013 (5), as evidenced by NAC 624.700 (3) (a), failure to comply with law or regulations of board by failing to comply with the notice to correct; and NRS 624.301 (4), willful failure or refusal without legal excuse on the part of a licensee to comply with the terms of a construction contract or written warranty, thereby causing material injury to another.

The notice of hearing was entered into the record as EXHIBIT 1.

The current status of the license was active.

Mr. Taylor questioned Ms. Palcynsky, who testified Gramercy Park had entered into a contract with the Licensee for the re-plastering of a Jacuzzi spa and the re-surfacing of the pool deck for a contract price of \$5,778, which had been paid in full. Within 90 days, peeling and flaking in numerous areas surrounding the swimming pool had become manifest. Ms. Palcynsky detailed her attempts to contact the Licensee. Two weeks prior to the hearing, the Licensee had walked into her office anxious to repair the problem, which had existed for three years. The work had been completed within the last week.

Mr. Ramsey testified that a notice to correct had been sent on September 30, 1998 and a final notice in October 1999. There had been no attempt to comply with the notice to correct. Mr. Ramsey said the complaint was a valid complaint. He had photographed the discrepancies on September 28, 1999.

The evidentiary was closed.

MR. JOHNSON MOVED TO ACCEPT THE TESTIMONY AND FILE OF LICENSE #36753, MICHAEL BRADLEY COMPANY, AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO FIND LICENSE #36753, MICHAEL BRADLEY COMPANY, IN VIOLATION OF ALL THREE CAUSES OF ACTION.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase.

MR. JOHNSON MOVED TO PLACE A PERMANENT LETTER OF REPRIMAND INTO THE FILE OF LICENSE #36753, MICHAEL BRADLEY COMPANY, TO SUSPEND THE LICENSE FOR 6 MONTHS, AND TO RECOVER THE INVESTIGATIVE COSTS OF \$1,850 PRIOR TO LIFTING THE SUSPENSION.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ELDORADO BUILDERS, INC. #42858 - DISCIPLINARY HEARING

ELDORADO ROOF SYSTEMS, #37222 – DISCIPLINARY HEARING

Neither Alfred Padron, President, Eldorado Builders, Inc, nor Jose Abbate, Owner, Eldorado Roof Systems, were present for the hearing. Additionally, no one, including legal counsel, was present to represent the Licensees.

License #37222 had suspended on October 23, 1996 for no bond, and license #42858 had suspended on June 15, 1998 for no bond.

Mr. Zech abstained.

The notice of hearing consisting of pages 1-37 had been mailed certified on February 8, 2000 to the address of record. Service had not been effected, and Investigator Caruso had exhausted all resources for service.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was performed; NRS 624.3013 (5), as set forth in NAC 624.700 (3) (a) failure to comply with law or regulations of board by failing to comply with the notice to correct; NRS 624.3015 (1), acting in the capacity of a contractor beyond the scope of the license; NRS 624.3012 (2) willful or deliberate failure by any licensee or agent or officer thereof to pay any money when due for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient money therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased, or the false denial of any such amount due or the validity of the claim thereof with intent to secure a discount upon such indebtedness or with intent to injure, delay or defraud the person to whom such indebtedness is due; NRS 624.3013 (3) failure to establish financial responsibility as set forth in NRS 624.220 and 624.260 to 624.265, inclusive, at the time of renewal of the license or at any other time when required by the board; and NRS 624.3018 (2) the performance by any partnership, corporation, firm or association of any act or omission constituting a cause for disciplinary action likewise constitutes a cause for disciplinary action against any licensee who is a member, officer, director or associate of such partnership, corporation, firm or association, and who participated in such prohibited act or omission.

The hearing file was entered into the record as EXHIBIT 1.

Michael Little, Credit Manager, Ahern Rentals, was identified as being present for the hearing.

The evidentiary was closed.

MR. JOHNSON MOVED TO ACCEPT THE FILE OF LICENSE #42858, ELDORADO BUILDERS, INC., AND LICENSE #37222, ELDORADO ROOF SYSTEMS, AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO FIND LICENSE #42858, ELDORADO BUILDERS, INC., AND LICENSE #37222, ELDORADO ROOF SYSTEMS, IN VIOLATION ON ALL CHARGES.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase.

MR. JOHNSON MOVED TO REVOKE LICENSE #42858, ELDORADO BUILDERS, INC., AND LICENSE #37222, ELDORADO ROOF SYSTEMS, TO REQUIRE FULL RESTITUTION TO ALL DAMAGED PARTIES, AND TO RECOVER THE

INVESTIGATIVE COSTS OF \$3,615 PRIOR TO FUTURE LICENSURE IN THE STATE OF NEVADA.**MR. CARSON SECONDED THE MOTION.****THE MOTION CARRIED UNANIMOUSLY.****C & H POOLS, INC. #19647A - DISCIPLINARY HEARING**

Cynthia Davis, President, C & H Pools Inc. was not present, and there was no one, including legal counsel, to represent the Licensee.

Stratton Pang, Complainant, and Tom Tucker, NSCB Investigator, were sworn in.

The notice of hearing consisting of pages 1-26 had been mailed certified on February 8, 2000. Proof of Service had been returned signed and dated February 14, 2000.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which was not commensurate with standards of the trade in general or which was below the standards in the building or construction codes adopted by the city or county in which the work was performed; NRS 624.3013 (5), failure to comply with law or regulations of board as set forth in NAC 624.700 (3) (a) and NAC 624.640 (5): failure to comply with the law or regulations of the board by failing to comply with the notice to correct; 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 any monetary limit placed upon his license; NRS 624.301 (1), abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor; and NRS 624.301 (3), failure in a material respect on the part of a licensee to complete any construction project or operation for the price stated in the contract for the project or operation or any modification of the contract; failure to comply with any regulations of the board governing contracts for the construction of residential pools and spas by failure to comply with: NRS 597.716 (2), must complete work diligently and shall not refuse to perform work for any 30-day period; NRS 597.716 (3), provide owner full and unconditional release from any claim of mechanics lien for portion of work for which payment has been made; NRS 597.716 (5), provide written statement explaining the rights of the customer; NRS 597.719 (1) (h) Provide owner with notice and informational form required by NRS 624.321; and NRS 597.719 (2), include in contract, notice stating owner has the right to request a bond for payment and performance.

The hearing file was entered into the record as EXHIBIT 1.

Mr. Taylor questioned Mr. Pang, who testified he paid a second contractor \$10,368 out-of-pocket to finish the project C & H had left uncompleted. Originally, Mr. Pang had placed \$12,310 in escrow so that C & H Pools could perform the repair work. Subsequently, C & H Pools had submitted a claim and withdrew money from escrow for work they did not perform. Mr. Pang was advised to file against the bond.

Mr. Tucker, NSCB Investigator, validated Mr. Pang's complaint.

Mr. Lyford was asked to look into the matter as a possible criminal complaint.

The evidentiary was closed.

MR. JOHNSON MOVED TO ACCEPT THE TESTIMONY AND FILE OF LICENSE #19647A, C & H POOLS, INC., AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.**MR. ZECH SECONDED THE MOTION.****THE MOTION CARRIED UNANIMOUSLY.****MR. JOHNSON MOVED TO FIND LICENSE #19647A, C & H POOLS, INC., IN**

VIOLATION OF ALL CAUSES OF ACTIONS.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO REVOKE LICENSE #19647A, C & H POOLS, INC., TO REQUIRE THAT FULL RESTITUTION BE MADE TO THE DAMAGED PARTIES, AND TO RECOVER THE INVESTIGATIVE COSTS OF \$1,975 PRIOR TO FUTURE LICENSURE IN THE STATE OF NEVADA.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ENFORCEMENT ADVISORY COMMITTEE

Two enforcement advisory committee (EAC) meetings had been held on February 18, 2000. Mr. Johnson had served as the Board representative, and he would be abstaining on both issues.

1. **LAWNS PLUS** #44317, Gary Dean Raines, Owner

The matter concerned the Licensee's contracting out of scope. The committee's recommendation was that the Licensee pay the investigative costs of \$936.28 within 90 days, resolving the matter.

MR. ZECH MOVED TO ACCEPT THE SETTLEMENT AGREEMENT OF LICENSE #44317, LAWNS PLUS.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED. (MR. JOHNSON ABSTAINED)

2. **SOLANO DEVELOPMENT LIMITED**

The same EAC committee was recommending a \$500 fine, and the recovery of the investigative costs of \$1,569.08 for contracting without a license. A new license application had been approved as of this day for Solano Development.

MR. ZECH MOVED TO ACCEPT THE SETTLEMENT AGREEMENT OF SOLANO DEVELOPMENT LIMITED.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED. (MR. JOHNSON ABSTAINED)

REQUEST FOR RECONSIDERATION – R V Jones Corporation, based upon a letter submitted by the owner.

MR. JOHNSON MOVED TO RECONSIDER THE R V JONES CORPORATION MATTER.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

The licenses were to remain revoked until reconsidered.

INTELECTRIC #38962 - DISCIPLINARY HEARING

David R. McKovich, Owner, was not present, and there was no one, including legal counsel, present to represent the Licensee.

Carmen Caruso, NSCB Investigator, was sworn in.

The status of the license was suspended for no bond as of January 21, 1999.

The notice of hearing and complaint, dated February 2, 2000 and consisting of pages 1-35, had been sent certified mail to the address of record. No return receipt was received, and the notice was returned on February 2, 2000 by the post office stamped "Moved, Left No Address, Unable to Forward, Return to Sender."

Carmen Caruso had attempted hand delivery on February 9, 2000, and was told by neighbors that the address of record had new residents as of the last couple of months.

An amended notice of hearing regarding the change in date and time had been sent certified mail to the address of record, on March 7, 2000. Again, no return receipt had been received, and the notice was returned by the post office on February 14, 2000.

The hearing was for possible violation of NRS 624.3012 (2), willful or deliberate failure by any licensee or agent or officer thereof to pay any money when due for any materials or services rendered in connection with his operations as a contractor; NRS 624.3013 (3), failure to establish financial responsibility pursuant as set forth in NRS 624.220 and 624.260 to 624.265, inclusive, at the time of renewal of the license or at any other time when required by the board; NRS 624.3013 (5), as set forth in NAC 624.640 (3): failure in any material respect to comply with the provisions of this chapter or the regulations of the board 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.

The hearing notice was entered into the record as EXHIBIT 1.

Mr. Taylor questioned Investigator Caruso, who testified he had validated the complaint of Capital Wholesale Lighting & Electric. He said the Licensee, who had also not provided the documents that had been requested to establish financial responsibility, and who could no longer be found at the address of record, had not paid them \$1,349.38.

The evidentiary was closed.

MR. ZECH MOVED TO ACCEPT THE TESTIMONY AND FILE OF LICENSE #38962, INTELECTRIC, AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. ZECH MOVED TO FIND LICENSE #38962, INTELECTRIC, IN VIOLATION OF ALL CHARGES.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Penalty phase.

MR. ZECH MOVED TO REVOKE LICENSE #38962, INTELECTRIC, TO REQUIRE

FULL RESTITUTION TO THE DAMAGED PARTIES, AND TO RECOVER THE INVESTIGATIVE COSTS OF \$2,320 PRIOR TO FUTURE LICENSURE IN THE STATE OF NEVADA.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

VISION CRAFT HOMES INC. #45953 – DISCIPLINARY HEARING (Continued from 10/26/99, 12/21/99, and 2/23/2000)

Daniel Berg, President, Vision Craft Homes Inc; Ted Parker, Legal Counsel in the Banich Complaint, Vision Craft Homes Inc; Mike Mushkin, Legal Counsel, Vision Craft Homes Inc; Richard Caleel, Legal Counsel representing the Baniches, were present for the Investigator's progress report.

Mr. Griffy recapped that in the last hearing Mr. Mincheff had been asked by the Board to review the Banich residence. Mr. Nelson was to accompany Mr. Mincheff to inspect the electrical issues that had been raised in the complaint.

Greg Mincheff, NSCB Investigator, reported that he and Mr. Nelson had met at the Banich residence on March 2, 2000, and had reviewed the electrical issues in the R & R letter. Mr. Nelson and Don Gifford, Consultant for Vision Craft Homes, had reviewed all the items. It was determined there were no life safety issues regarding the electrical system.

Ms. Sheltra questioned the alleged water leak in a light fixture. Mr. Mincheff replied it was the only item that might pose a problem, depending upon the severity of rain and other circumstances. The most probable cause of the leakage was an access door for a Jacuzzi tub. The flange appeared not to be sealed. Sealing the flange might eliminate the possibility of water intrusion.

Ms. Grein commented that Mr. Nelson had called after the inspection. He concurred with R & R Electrical regarding all of the items needing correction, but he did not feel there were life safety issues involved.

Discussion then ensued regarding the investigator report and life safety issues.

Mr. Mushkin stated he had prepared a request for relief, along with supporting exhibits (EXHIBIT E), adding that his request for relief was for the purpose of having the summary suspension retroactively removed. He said Mr. Parker had also prepared a chronology of events (EXHIBIT F). Mr. Mushkin asserted there had been no specific findings for the suspension, and there had been no duration set for the suspension.

Dialogue followed regarding the suspension and the reasons for it. Mr. Mushkin and Mr. Parker contended that the reason the repairs had not been made to the Banich residence was because Vision Craft had not been allowed access to the property. Mr. Parker added that Mr. Nelson had informed him that it was going to cost \$3,000 to \$4,000 to repair the electrical items. On Friday, the day following the inspection, an offer of \$3,500 had been made to Mr. Caleel's office. Mr. Parker added he had the Banich settlement offer (EXHIBIT E) with him to give to Mr. Caleel, if Mr. Caleel was prepared to get the work done.

Mr. Caleel responded that there was a discrepancy in the amount being offered, stating his hard estimate amounted to \$9,000. His concern was that the offer did not cover the cost of repair.

In further discussion of the correction work and access to the home, Mr. Caleel was informed that a metal roof could be performed with a C21 license. When asked if the homeowner was willing to allow the Licensee back to the property to make repairs, Mr. Caleel responded: "Absolutely."

MR. CARSON MOVED TO LIFT THE SUSPENSION OF LICENSE #45953, VISION CRAFT HOMES INC., UNTIL THE APRIL 18, 2000 MEETING IN LAS VEGAS, SUBSTANTIAL WORK TO BE PERFORMED PRIOR TO THAT DATE OR THE LICENSE WOULD AUTOMATICALLY BE SUSPENDED. THE BANICH RESIDENCE WAS TO BE MADE AVAILABLE DURING THE ENTIRE PERIOD OF TIME, AND MR. MINCHEFF WAS TO BE MADE AVAILABLE TO COORDINATE ACCESS.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

REMINGTON HOMES LTD. #35380 - DISCIPLINARY HEARING

David Del Zotto, President

Continued.

PUBLIC HEARING

CONSIDERATION OF ADOPTION OF PROPOSED REGULATIONS – BIDDERS PREFERENCE; FINGERPRINT CARDS; INACTIVE STATUS; AND ASSOCIATED FEES

DISCUSSION AND CONSIDERATION OF REQUIREMENTS TO ADOPT REGULATIONS UNDER NRS 624.112(1)(B) - INVESTIGATOR QUALIFICATIONS; NRS 624.361(1) - FORM OF WRITTEN CITATIONS; NRS 624.361(2) - TIME TO CORRECT A CONDITION; NRS 624.361(3) - IMPOSITION OF ADMINISTRATIVE FINES; AND NRS 624.260 - NEW LICENSE QUALIFICATIONS.

In addition to those making comments, please refer to the Sign-In Log for those in attendance of this matter.

Chairman Gregory stated the emergency regulations were in effect, and the proposed final regulations would mirror the emergency regulations. He said that the response dated March 6, 2000 from the Attorney General's (AG's) office clarifying 13 questions the Board had posed was now available. Chairman Gregory next requested comments from the audience indicating how the emergency regulations were working, adding that a second public hearing would be held in Reno prior to the adoption of the final regulations.

Paul Georgeson, Legal Counsel, Northern Nevada Associated General Contractors (AGC) commented that his letter to the Board on bidders preference dealt with the limited issue of the definitions found in section 6 of the proposed regulations. He summarized that it was the AGC's position and desire that the Board put into its regulations that certificates of eligibility for bidders preference were not solely limited to General Building contractors and General Engineering contractors, but included contractors licensed under the laws of the State of Nevada that would qualify as "prime contractors" on construction projects. Mr. Georgeson then referenced the various reasons, as stated in his letter, why he believed the Board should include that definition.

Continuing, Mr. Georgeson stated that he believed that the question was what did the Legislature mean by using "general contractor" in the amended bidders preference statutes, taking issue with the Attorney General's office regarding question #4, and adding that the AG had assumed that the Legislature apparently intended the term "general contractor" to be limited solely to General Engineering contractor and General Building contractor. Mr. Georgeson asserted that he felt there was no basis for the assumption, and there was a general rule of statutory construction that would presume the other way. Under that theory, had the Legislature wanted to limit it to only General Engineering and General Building contractors knowing that those terms were already defined in NRS 624, the Legislature would have used those specific, predefined terms in section 6. He stressed

that because the Legislature did not use the specific, predefined terms, the presumption was that it did not want to so limit the language. Mr. Georgeson then pointed out there were constitutionality questions if so limited, and urged the Board to review his letter.

Mr. Gregory clarified that the Board was interested in whether there was opposition to the final regulations including changing the language to include "prime contractors."

Tom Fallon, President, Pace Contracting, declared that he agreed with the Attorney General's opinion as stated in the letter provided to the Board. Mr. Fallon did not believe certificates of eligibility should be issued to specialty contractors because he believed the current language had been put in place to benefit general engineering and building contractors. He opined that the law could be modified in the next legislative session. It was Mr. Fallon's opinion that if the Board were to issue certificates of eligibility to specialty contractors, the Board would open itself up to lawsuits from many different contractors. His concern was the Board would take the law and interpret it the wrong way against counsel's recommendation.

A dialogue was then entered into regarding the definition of "general contractor" versus "prime contractor." Mr. Taylor questioned Mr. Georgeson regarding NRS 338.138 (9) and NRS 338.147 wherein the Legislature, in four instances, changed the word "contractor" to read "general contractor," and asked for Mr. Georgeson's explanation or reason for that change. Mr. Georgeson had none. Mr. Taylor pointed out that there was a presumption of statutory construction that any change in the law was not done without a purpose, adding that the Board needed some idea as to why the change was made in terminology in order to make a determination.

Bob Tibesar, President, Tibesar Construction, commented he was confused as to why there was an issue in this regard. He pointed out that as a general, there needed to be three or more items of work to fall under the general contractor's parameters. That was the only time bidders preference was required. If a specialty contractor was bidding against a specialty contractor, he had no problem with a preference in that arena because he said a general contractor could not bid only one specialty item. Mr. Tibesar said he believed the law was to give preference to the local general contractors, stating he believed it was real clear. Anything else belonged in a separate venue.

Jesse Paulk, Las Vegas Chapter AGC, concurred with Mr. Georgeson, and with the premise that it was not the intent of the Legislature to eliminate prime contractors.

Tony Mark, President, Fast Track Electric, identified himself as one of the contractors who lost the right for bidders preference. He said that, in the past, he had bid many public works projects, which had been bid solely as electrical. He had used the bidder's preference law for 10 years. Now, under the new definition, he was not able acquire bidder's preference.

Fred Smith, Director of Construction Management, Clark County School District, supported the AGC opinion, believing that the specialty contractors should get bidder's preference. The Clark County School District had been granting bidder's preference to specialty contractors for at least the last 10 years, and it had never posed a problem.

Garth Frehner, President, Frehner Construction Company, was present with General Counsel, Joffre Johnson. Attorney Johnson stated that he had reviewed the emergency regulations and the regulations leading up to them. Attorney Johnson suggested a change to the definition of general contractor in a different context than what was being discussed. It was believed that an the interpretation was caused by some unfortunate language in the original statute regarding employee stock option plans, etc, eliminating a contractor who was incorporated, and who had maintained bidders preference through the taxes, and then because of a change of stock ownership, loses that preference when it had been continually maintained. To avoid that problem, Attorney Johnson suggested a proposed amendment to section 6 of the emergency regulations:

For the purpose of these regulations, this includes any corporation, which has otherwise qualified for bidder's preference, whose controlling ownership has changed through stock sale and purchase, where the qualified corporation as an entity remains uninterrupted under the provisions of the Nevada Corporate law.

Attorney Johnson said this would allow a corporation whose stock got sold to another individual to maintain that preference even after a change in ownership. Mr. Taylor asked if this meant that an out-of-state corporation could acquire a bidder preference by buying out a Nevada company. Attorney Johnson agreed that it did.

Mr. Taylor next asked if the Board had the authority to add the language. Attorney Johnson answered the Board was interpreting language, not adding language.

George Ogilvie, Legal Counsel representing Hayden Building Corp. in current litigation, said it was important for the Board to know that before weighing Mr. Fallon's comments, Mr. Fallon was a very interested party in that litigation. Additionally, Mr. Ogilvie pointed out that it was the sponsoring parties, ABC and AGC, who had something in mind regarding bidders preference, and both Dallas Koonrod and Warren Hardy had testified at the December 30, 1999 meeting that it was not the legislative intent to preclude specialty contractors from obtaining bidders preference. The legislature erred.

Chairman Gregory announced the next public meeting regarding the same issues would be held in Reno on April 4, 2000.

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 3:30 p.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman