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STATE OF NEVADA

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STATE CONTRACTORS BOARD

**MINUTES OF THE MEETING
MARCH 26, 2003**

1. CALL TO ORDER

Adjudicating Board Member Doug Carson called the meeting of the State Contractors Board to order at 8:33 a.m., Wednesday, March 26, 2003, State Contractors Board, Henderson, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Douglas W. Carson, Adjudicating Board Member
Mr. Jerry Higgins

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. George Lyford, Director of Investigations
Mr. Chris Denning, Deputy Director of Investigations

LEGAL COUNSEL PRESENT:

Ms. Carolyn Broussard, Legal Counsel
Mr. Bruce Robb, Legal Counsel (Walter Bruce Robb)

ADJUDICATING BOARD MEMBER: DOUG CARSON

1. DISCIPLINARY HEARING:

SAGE PROFESSIONAL PAINTING CO., LICENSE #31864

Sidney Lewis, Owner of Sage Professional Painting Co.; George Garcia, AVP at Wells Fargo Bank; Phillip Wakefield, Project Manager for Ledcor Industries; and Investigator Greg Welch were sworn in. Mr. Ed Ewert, counsel for Sage Professional Painting Co., was present.

The hearing was for possible violation of NRS 624.3015(2); NRS 624.3013(5), as set forth in NAC 624.640(5); NRS 624.302(6); and NRS 624.3016(1).

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Investigator Welch testified that Respondent submitted an application to the Board for a one-time raise in limit of \$750,000 on March 19, 2002. On March 21, 2002, Respondent submitted a bid proposal to Ledcor Industries for \$1,449,781. The Respondent's one-time raise in limit was approved on March 26, 2002. Investigator Welch further testified that Respondent did not comply with a request for documents and payroll checks were returned Insufficient Funds between August 23 and August 30, 2002.

Mr. Garcia testified that he has had a business relationship with the Respondent since November of 2001. Mr. Garcia further testified that he had honored the Respondent's payroll checks when there was not sufficient funds to cover them, having received a letter from Respondent stating funds were due to Respondent from Leducor Industries. Mr. Garcia testified the checks could only be cashed at his branch bank. Mr. Garcia further testified he had authority to engage in the agreement to honor checks when no money was in the account, even though there was no check overdraft agreement or line of credit extended to the Respondent. His actions were not a violation of any bank policies. Mr. Garcia stated that when he was made aware Respondent filed an affidavit regarding forged checks on his account, he notified the loss prevention department at the bank.

Respondents answer to the complaint and exhibits were entered into the record as Exhibit B.

Mr. Wakefield testified that an employee of Leducor Industries referred Respondent for the Cancun Restaurant project, which was estimated to be around a \$2.5 million project. It was decided to have Leducor provide the materials and Respondent to furnish the labor bringing the project down to approximately \$1.5 million. Mr. Wakefield stated that joint checks were issued to Respondent and the material supplier.

A letter dated March 21, 2002, from Leducor Industries to the Board regarding Respondent was entered into the record as Exhibit C.

Mr. Lewis testified that he had been approached by Leducor Industries to perform the work on the Cancun Restaurant project, but he had been reticent to make a bid as he was currently working on another project. Mr. Lewis stated that he went over his bid proposal with Leducor trying to decide if he needed to put in two bids, one for the metal stud framing and one for the drywall. He decided to break it out into two bids but placed it on the same proposal and then applied for a one-time raise in limit for \$750,000. The bid proposal was for a total of \$1,499,781. Mr. Lewis further testified that an employee of his embezzled over \$98,000 from his company and this was the reason his employee payroll checks were returned insufficient funds.

The evidentiary portion of the hearing was closed.

Hearing Officer Carson found Respondent Sidney Alan Lewis, dba Sage Professional Painting Co., license #31864, guilty on the 1st, 2nd, 3rd and 4th causes of action. Mr. Lewis was assessed a fine of \$2,000 on the 1st cause of action, a fine of \$500 on the 3rd cause of action and a fine of \$1,000 on the 4th cause of action for a total fine of \$3,500. A one year Letter of Reprimand is to be placed in Mr. Lewis's file for the 2nd cause of action and a permanent Letter of Reprimand to be placed in Respondent's file for the 1st, 3rd, and 4th causes of action. Investigative costs were assessed in the amount of \$1,413. The fines and costs must be paid within 90 days from March 26, 2003 or Mr. Lewis' license will be suspended. Additionally, the fines and costs must be paid before the Board will consider any future licensure requests by Mr. Lewis.

2. DISCIPLINARY HEARING:

THE BOTTOM LINE, LICENSE #25606

Joseph Scott, Owner of The Bottom Line; Yolanda Galvez; Licensing Supervisor Pat Potter; Investigator Jim Ables; and Investigator Greg Welch were sworn in. Cuthbert Mack, Chtd., counsel for The Bottom Line, was present.

The hearing was for failure to comply with the Board's Decision and Order dated April 5, 2002.

Ms. Broussard informed Hearing Officer Carson that the Respondent was before him today because of not complying with the Decision and Order dated April 5, 2002. The Decision and Order stated that if the fines and penalties imposed by the Board were not paid within six (6) months, the Respondent was to be brought back before the Board for further action.

The Board Hearing File including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit A.

Mr. Mack requested to enter into the record correspondence between his client, The Bottom Line, and the Board. The correspondence was entered as Exhibit B. Mr. Mack proceeded to review the correspondence and stated he felt his client had attempted to resolve this matter by requesting the Board to use his cash bond to pay on the imposed fines. In addition, Mr. Mack requested that the Respondent's license be reinstated and Respondent be given an additional 60 days to pay the fines and costs.

Correspondence to the Respondent's counsel from the Board was entered into the record as Exhibit C.

Ms. Potter testified that the Board may not make a claim against a licensee's cash bond.

The evidentiary portion of the hearing was closed.

Hearing Officer Carson allowed Joseph Scott, dba The Bottom Line, license #25606, an additional 90 days to pay the previously assessed fines and costs totaling \$10,750. If the fines and costs are not paid within 90 days from March 26, 2003, Mr. Scott's license will be automatically revoked. Upon payment of the fines and costs, Mr. Scott's license may be reinstated if he has met the requirements of licensure established by the licensing department.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Adjudicating Board Member Carson at 10:45 a.m.

Respectfully Submitted,

Melinda Mertz, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Douglas Carson, Adjudicating Board Member