

MEMBERS

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DOUGLAS W. CARSON
MARGARET CAVIN
JERRY HIGGINS
DENNIS K. JOHNSON
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STATE CONTRACTORS' BOARD

**MINUTES OF THE MEETING
DECEMBER 5, 2000**

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 8:40 a.m., Tuesday, December 5, 2000, State Contractors' Board, Reno, 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
Ms. Margaret Cavin
Mr. Jerry Higgins
Mr. Dennis Johnson
Mr. Randy Schaefer

BOARD MEMBERS ABSENT:

Mr. Mike Zech

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
Mr. David Reese, Legal Counsel (Cooke, Roberts & Reese)
Ms. Nancy Mathias, Licensing Administrator
Mr. George Lyford, Director of Special Investigations
Mr. Frank Torres, Deputy Director of Investigations
Ms. Kathy Stewart, Licensing Supervisor
Mr. Ron Carney, Investigator
Mr. Gary Hoid, Investigator
Mr. Gary Leonard, Investigator
Ms. Betty Wills, Recording Secretary

OTHERS PRESENT:

Kate Murray, Court Reporter, Sierra Nevada Reporters; Larry Yount, Complainant; Ross Owen, Complainant; C. M. Murphy, Qualifying Officer, Murphy Brothers Construction Co. Inc; Andrew Beach, Complainant; Michael Brodie Lewis, President, M. B. Lewis Construction, Wally Stephens, Legal Counsel, M. B. Lewis Construction; Joy Joyner, Complainant; Jess Traver, Director, Building & Safety Department, Washoe County; David Price, County Engineer, Washoe County; Brian Harris, Legal Counsel, A E S Corporation; Christine Stanford, Manager, Builders of America LLC; George Stanford, Previous License Holder, Builders of America LLC; Attorney Keith Gregory: Builders of America LLC, and Chief Roofing Inc; Jordan S. Primack, QE, CEO/Secretary, Primack Homes Inc; Johannes Lamprecht, Owner, Lamprecht Construction; Philip Baron, Complainant; Brian McMahan, Legal Counsel representing Johannes Lamprecht; and Michael Springer, Legal Counsel representing Mr. Baron.

Ms. Grein stated that Gary Leonard had posted the agenda in compliance with the open meeting law on November 29, 2000 at the Washoe County Court House, Washoe County Library, and Reno City Hall. In addition, it had been posted in both offices of the Board, Las Vegas and Reno, and on the Board's Internet web page.

It was learned there were 18 items on the amended agenda, each item of an emergency nature. Additionally, on the regular agenda, item 10, Architectural Concrete, license #8684A, was continued to the January Reno hearing.

A motion was made, seconded, and carried to hear the amended agendas.

Mr. Gregory called for a motion to approve the minutes of October 30 & November 28, 2000.

MR. CARSON MOVED TO APPROVE THE MINUTES OF OCTOBER 30, 2000.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO APPROVE THE MINUTES OF NOVEMBER 28, 2000.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

EXECUTIVE SESSION

UNFINISHED BUSINESS FROM 11/21/00

APPROVAL OF REVISED EMPLOYEE HANDBOOK

Ms. Grein reminded the Board that the revised Employee Handbook had been distributed in the last Board meeting. She requested one additional change to the handbook: to change the mission statement to the revised mission statement adopted at the Board's workshop.

MR. CARSON MOVED TO ACCEPT THE REVISED EMPLOYEE HANDBOOK WITH THE REVISED MISSION STATEMENT.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

NOVEMBER 6, 2000 MANAGEMENT LETTER REVIEW (CONTINUED FROM 11/21/00)

Ms. Grein informed the Board that both letters from Solari and Strummer had been compiled into a report format, which was distributed to all members. It contained the Plan of Action that was being initiated to address all issues. All recommendations outlined in the both letters dated November 6, 2000 had been accepted and changes were underway, with some changes already having been implemented.

APPROVAL OF REVISED POLICY DIRECTIVE 99-01-20 (FINANCIAL RESPONSIBILITY)

Ms. Mathias, Licensing Administrator, presented the modified financial responsibility procedure, which addressed items from the strategic planning session and the management letter.

MR. JOHNSON MOVED TO APPROVE THE MODIFIED PROCEDURES.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

REVIEW OF AGING REPORTS - LICENSING

Ms. Mathias, Licensing Administrator, and Kathy Stewart, Licensing Supervisor presented the licensing aging reports requested by the Board in its last meeting.

The remainder of the Executive Session was continued to return to the regular agenda.

DISCIPLINARY HEARINGS

J & L ROOFING & SIDING #34011 - DISCIPLINARY HEARING

Joseph Charles Lewis, Owner, J & L Roofing & Siding, was not present, nor was anyone present on the Respondent's behalf.

Larry Yount, Complainant, and NSCB Investigator Gary Leonard were sworn in.

The Notice of Hearing and Complaint, consisting of pages 1-43, had been sent to the Respondent via facsimile on November 3, 2000 and mailed certified to Respondent's address of record, on file with the Board, on November 6, 2000. The mailing had been returned to NSCB on November 8, 2000 stamped "No Forwarding Address."

The Notice of Hearing and Complaint had been re-mailed to an alternate address (600 Sutcliffe Drive, #16, Reno, Nevada 89510) on November 9, 2000. That mailing was also returned to NSCB on November 13, 2000, marked "Forwarding Expired."

The hearing was for possible violations of NRS 624.3017 (1), workmanship which is not commensurate with standards of the trade in general or which is below the standards in the building or construction codes adopted by the city or county in which the work is performed; NRS 624.3013 (5), as evidenced by NAC 624.700 (3) (a) and NAC 624.640 (5), failure to comply with law or regulations of board by failing to comply with the notice to correct; NRS 624.3013 (5), failure to include the monetary limit placed on the license, as required by NAC 624.640 (5); and NRS 624.3013 (5), failure to notify the Board in writing, as soon as reasonably practicable, regarding the filing of a petition for bankruptcy, as set forth in NRS 624.263 (3).

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

Mr. Haney stated that the status of the license was suspended for no bond as of October 19, 1998.

Mr. Yount testified that on or about June 4, 1996, he had entered into a written contractual agreement with the Respondent for the complete removal and replacement of the roof on his residence for the total contract price of \$4,965.00, which had been paid in full. The work had not performed properly as the roof leaked, and the Respondent had not provided Mr. Yount his monetary limit.

Investigator Leonard testified that he had reviewed the Yount residence and validated all workmanship issues. He said a correction notice had been sent to the Respondent but there had been no response.

Regarding the Potter complaint, Investigator Leonard testified that he had investigated the Potter complaint and had validated that the roofing tile pattern was irregular and that the roofing surface was bubbling and did not lie flat. The Respondent had been requested to repair the roof, but there had been no response to the request.

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO ACCEPT THE FILE AND TESTIMONY AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO FIND LICENSE #34011, J & L ROOFING & SIDING, IN VIOLATION OF ALL CHARGES.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO REVOKE LICENSE #34011, J & L ROOFING & SIDING; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND TO RECOVER THE INVESTIGATIVE COSTS OF \$2,177.89 PRIOR TO ANY CONSIDERATION OF FUTURE LICENSURE IN THE STATE OF NEVADA.

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

BILL BEATTY CONSTRUCTION #38846 - DISCIPLINARY HEARING

William M. Beatty, Owner, Bill Beatty Construction, was not present, nor was anyone present on the Respondent's behalf.

Ross Owen, Complainant, and NSCB Investigator Gary Leonard were sworn in.

The Notice of Hearing and Complaint, consisting of pages 1-30, had been mailed certified to the Respondent's address of record, on file with the Board, on November 3, 2000. To date, the certified receipt had not been returned to NSCB.

An Amended Notice of Hearing posting a changed time for the December 5, 2000, hearing had been sent certified to Respondent on November 22, 2000. To date, the certified receipt had not been returned to NSCB.

The hearing was for possible violation of NRS 624.3017 (1), workmanship which is not commensurate with standards of the trade in general or which is below the standards in the building or construction codes adopted by the city or county in which the work is performed; NRS 624.3013 (5), as evidenced by NAC 624.700 (3) (a), NRS 624.302 and NAC 624.640 (3) (5), failure to comply with the law or regulations of the board by failing to comply with the order to correct, failure to comply with a written request from the board or its designee to cooperate in the investigation of a complaint, failure to notify the Board of a change of address, and failure to include the monetary limit placed on the license; and NRS 624.301 (1), failure to complete or prosecute diligently the project for construction.

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

Mr. Haney pointed out that the status of the license was cancelled, not renewed, as of March 31, 1999.

Mr. Owen testified that he had entered into a written contractual agreement with the Respondent for the construction of a new garage at Mr. Owen's property for a total contract price of \$21,100.00. The full amount of the contract had been paid. When the work had been completed, Mr. Owen began to have problems with the shingles on the roof and the garage doors. The garage doors leaked underneath the rubber seals on the

garage door, and the nail heads were exposed on the shingles.

Investigator Leonard testified that all issues as presented by Mr. Owen were valid. The notice to correct had been sent but there had been no response. The work had not been performed in a timely manner. Investigator Leonard stated that he had never located the Respondent, and that the board office had never received a change of address.

The Newman complaint was then addressed. Investigator Leonard testified that the roof nailing was below code.

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO ACCEPT THE FILE AND TESTIMONY AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO FIND LICENSE #38846, BILL BEATTY CONSTRUCTION COMPANY, IN VIOLATION OF ALL CHARGES.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO REVOKE LICENSE #38846, BILL BEATTY CONSTRUCTION COMPANY; TO REQUIRE FULL RESTITUTION TO THE DAMAGED PARTIES; AND TO RECOVER THE INVESTIGATIVE COSTS OF \$2,343.32 PRIOR TO ANY CONSIDERATION OF FUTURE LICENSURE IN THE STATE OF NEVADA.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

MURPHY BROTHERS CONSTRUCTION CO INC #07821 - DISCIPLINARY HEARING

C. M. Murphy, Qualifying Officer, Murphy Brothers Construction Co. Inc., and NSCB Investigator Ron Carney were sworn in.

The Notice of Hearing and Complaint, consisting of pages 1-22, had been sent to the Respondent via facsimile on November 3, 2000 and mailed certified to Respondent's address of record, on file with the Board on November 6, 2000. The mailing had been returned to NSCB on November 8, 2000 stamped "No Forwarding Address".

The hearing was for possible violation of NRS 624.3012 (2), willful or deliberate failure to pay monies due for materials or services rendered in connection with Respondent's operations as a contractor; NRS 624.3013 (3), failure to establish financial responsibility pursuant to NRS 624.220 and NRS 624.260 - 624.265, inclusive, at the time of renewal of the license or at any other time when required by the Board.

The notice of hearing was entered into the record as EXHIBIT 1, and the stipulation was signed.

The status of the license was active temporary.

Investigator Carney testified he had spoken with the Complainant this a.m. and had been advised by the complainant that he did not wish to pursue the complaint any further. He added that the Respondent had not provided a financial statement.

Mr. Murphy testified that he did not bring a financial statement with him. He said he had written a letter to the board explaining that he wanted to clear up some matters with Murphy Brothers before he had a financial statement prepared. He said the company had collateral and equipment and properties, stating what he believed the fair market value to be. There were debts owing that needed to be cleaned up but he said what he had presented was all the company had. He said Murphy Brothers wanted to maintain the license and straighten out all the financial problems before preparing a financial statement.

Mr. Gregory presented reasons why an unlimited license with outstanding complaints against the license could not be renewed without a financial review. Mr. Gregory asked Mr. Murphy if the company had given any thought to reducing the license limit.

Mr. Murphy replied that he had not performed contract bidding in 20 years. He only wanted to perform his own projects or the rare project that a client or customer asked his company to do. He said he had a customer now who wanted them to do a project.

Mr. Gregory explained that the Board needed to be assured that the company had enough financial wherewithal to perform those projects. If no financial documentation was provided the Board would reduce the license limit through the hearing process in order to protect the public from financial harm. The personal indemnification option was explained to Mr. Murphy.

The evidentiary portion of the hearing was closed.

MR. JOHNSON MOVED TO DISMISS NRS 624.3012 (2).

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED. (MS. CAVIN AND MR. GREGORY WERE OPPOSED)

MR. CARSON MOVED TO FIND LICENSE #07821, MURPHY BROTHERS CONSTRUCTION CO INC, IN VIOLATION OF NRS 624.3013 (3).

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO CONTINUE THE HEARING TO THE FIRST RENO MEETING IN FEBRUARY FOR FINANCIAL REVIEW; TO REDUCE THE LICENSE LIMIT TO 2 MILLION; AND IF THE LICENSEE ENTERED INTO NEW CONSTRUCTION CONTRACTS WITHIN THE NEXT 60 DAYS, THE LICENSEE WAS TO POST A 100% PAYMENT AND PERFORMANCE BOND TO THE OWNER FOR THE COST OF THE PROJECT.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Haney pointed out that the evidentiary was to be reopened when the financial documents were reviewed.

HARRINGTONS CARPET SALES & INSTALLATION #33420 - DISCIPLINARY HEARING

Stuart Harrington, Owner, Harringtons Carpet Sales & Installation, was not present, nor was anyone present on the Respondent's behalf.

Andrew Beach, Complainant, and NSCB Investigator Ron Carney, were sworn in.

The Notice of Hearing and Complaint, consisting of pages 1-35, had been sent to the Respondent via facsimile on November 3, 2000 and mailed certified to Respondent's address of record, on file with the Board, on November 6, 2000. To date, the certified receipt had not been returned to NSCB.

An Amended Notice of Hearing posting a changed time for the December 5, 2000, hearing, had been sent certified to the Respondent on November 22, 2000. To date, the certified receipt had not been returned to NSCB.

The hearing was for possible violations of NRS 624.302 (5), failure to respond to a written request from the Board to cooperate in the investigation of a complaint; NRS 624.302 (6), failure to comply with a written request by the Board for information or records; NRS 624.3016 (3), knowingly making a false statement in or relating to the recording of a lien, pursuant to the provisions of NRS 108.225; NRS 624.3016 (1) and (2), commission of a fraudulent or deceitful act in the capacity of a contractor; conviction of a crime involving moral turpitude; and NRS 624.3016(4), failure to supply a homeowner with the notice required by NRS 108.245 or 108.246.

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

Mr. Haney explained that the matter involved a Respondent who had agreed to install flooring in the Hawthorne area. Either alcohol or drugs had been involved but, nonetheless, the Respondent had caused severe damage to a 78-year-old woman, and thereafter recorded a lien for several thousand of dollars against the complainant on a \$400 project. The Respondent had been to court on the criminal charges brought against him and lost.

Mr. Beach testified that on or about September, 1998, he had entered into a verbal contractual agreement with Mr. Harrington to install flooring. Mr. Beach had paid Mr. Harrington \$20.00 for gas to get to Hawthorne. When he arrived, Mr. Beach's mother fed him, and after approximately one hour, Mr. Harrington said it was Martini time. Mr. Harrington was to return the next morning but he did not arrive until 11:00 a.m. Again, Mr. Harrington was fed and after an hour and a half, he went berserk. A ruckus ensued wherein Mr. Harrington threw an uninstalled toilet at elderly Mrs. Beach, stomped on her legs, and broke her toes; and kicked Mr. Beach two times. When the police were notified, Mr. Harrington was picked up, interviewed, advised not to leave town or go to the Beach's. Thereafter, Mr. Harrington called Mr. Beach on the phone to request gas money to get back to Reno. Mr. Harrington was found guilty of the criminal charges. After which he recorded two liens against the property for a total of \$11,000. Mr. Harrington had supplied no materials and only worked approximately 4 hours.

Investigator Carney testified that he had requested that the Respondent come to an administrative meeting to try and resolve the issues but there had been no response.

The evidentiary portion of the meeting was closed.

The status of the license was active.

MS. CAVIN MOVED TO ACCEPT THE FILE AND TESTIMONY AS FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

MS. CAVIN MOVED TO FIND LICENSE #33420, HARRINGTON'S CARPET SALES AND INSTALLATION, IN VIOLATION OF ALL CHARGES.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

MS. CAVIN MOVED TO REVOKE LICENSE #33420, HARRINGTON'S CARPET SALES AND INSTALLATION.

MR. HIGGINS SECONDED THE MOTION.

THE MOTION CARRIED.

M B LEWIS CONSTRUCTION #39667A – DISCIPLINARY HEARING (Continued from 08/08, 9/12, & 10/17/00)

Michael Brodie Lewis, President, M. B. Lewis Construction, was present, along with his attorney Wally Stephens. Also present was Joy Joyner, Complainant, and NSCB Investigator Gary Hoid.

Jess Traver, Director, Building & Safety Department, Washoe County, and David Price, County Engineer, Washoe County, were sworn in.

Investigator Hoid testified that the work had been completed, but the \$1,000 had not been tendered. Investigator Hoid then testified that when the final repairs had been made, a gentleman from the county was present. Measurements were taken and the approach to driveway, which was thought to be 16.2% was actually an 18.2% grade. Thereafter, a letter had been received from Dave Price indicating that the grade was in violation of Washoe County Codes, but Mr. Hoid was unsure how the City was interpreting the issue.

Mr. Stephens questioned Mr. Hoid regarding the condition of the approach when the measurements had been taken. Mr. Hoid verified that the approach had been removed when the measurements were taken.

Mr. Traver testified that he was familiar with project only by looking at the permit status and by talking to the inspectors conducting the inspections on the job. He said Mr. Lewis had taken out the permit. He said his records did not reflect what the grade of the approach to the driveway was. He said the status of the permit was that it had been issued. One inspection had been performed. A correction list had been made on the project, which included grading issues. The Respondent was to supply the building department with grading certifications or reflect the true grading issues at the property. When that was accomplished, they would have to submit another set of plans for approval back to the county if changes were planned or they would have to build according to the current plans. Thereafter, they would call for another inspection. Whereupon the County would perform the next inspection to see if everything was complete. Mr. Traver did not have the dates of when the correction notices had been issued, but he confirmed they had not been satisfied. There was no time limit on the correction notice. The Respondent had until the permit expired to correct.

Mr. Stephens asked Mr. Traver if he had a copy of the correction notice. He did not. When asked if he knew what corrections had been requested, Mr. Traver replied that there was a grading correction. Mr. Stephens provided Mr. Traver with a copy of the correction notice. Mr. Traver identified the correction notice and said it was positive drainage away from the structure, grading issues.

Mr. Haney questioned Mr. Price, who described what he knew about the grade. He testified that the grade of the driveway when originally graded for the subdivision was 14%. It was his understanding that later on when the final floor slab for the garage was

constructed there was a 10-foot driveway transition to connect the existing driveway to the floor slab. That was constructed at approximately 18%. He said county code required a maximum grade of 14%, adding that it was Engineering that had looked at the matter.

Mr. Stephens questioned Mr. Price extensively regarding Washoe County code.

Mr. Price stated that his office did not issue correction notices, and to his knowledge he did not know if a correction notice had been issued.

Mr. Gregory clarified that it was not unusual for building department to change their mind or to reserve the right to issue correction notices irregardless of what the approved plans said.

Discussion then focused on what charges were being addressed and the money Mr. Lewis was to return to Ms. Joyner.

Mr. Hoid next testified that he had expressed to Mr. Lewis that he was satisfied with the work. Mr. Hoid stated that he did not agree to provide Mr. Lewis with that fact in writing.

It was then determined that the approach remained an issue, it was red tagged by the building department, and the money had not been returned to the homeowner.

Mr. Hoid clarified that he had not received any calls from Mr. Lewis or his attorney.

Mr. Traver interjected that any changes to the approved drainage plan had to be submitted to the building department. It also required certification from a licensed civil engineer to confirm that drainage was corrected. Mr. Traver said the person who drew the plans was responsible to correct the drainage.

Mr. Stephens pointed out that the owner drew the approved plans.

Ms. Joyner said her daughter, a planner, had drawn the plans. Mr. Lewis had made changes. Mr. Lewis had prepared the last plans submitted to the County.

Mr. Gregory clarified that, irregardless of who drew the plans, there was a red tag on the property.

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO FIND LICENSE #39667A, M B LEWIS CONSTRUCTION INC, IN VIOLATION OF NRS 624.3017 (1), NRS 624.3011 (1) (A), AND NRS 624.3015 (5); AND TO DISMISS NRS 624.3013 (5).

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO PLACE A ONE-YEAR LETTER OF REPRIMAND INTO THE LICENSE FILE OF LICENSE #39667A, M B LEWIS CONSTRUCTION INC; TO REQUIRE THE RESPONDENT TO PAY THE HOMEOWNER, MS. JOYNER, \$1,000 AS AGREED TO PREVIOUSLY; TO IMPOSE THE RECOVERY OF THE INVESTIGATIVE COSTS OF \$6,602.64; TO REQUIRE THE RESPONDENT TO SATISFY THE OUTSTANDING BUILDING DEPARTMENT RED TAGS BY WHATEVER MEANS NECESSARY; AND TO IMPOSE AN ADMINISTRATIVE FINE OF \$250 PER VIOLATION, FOR A TOTAL OF \$750. THE HOMEOWNER, MS. JOYNER, WAS TO BE PAID WITHIN 30 DAYS, THE FINES WITHIN 60 DAYS, AND THE RED TAGS WERE TO BE CORRECTED WITHIN 90 DAYS OR THE LICENSE WAS TO BE AUTOMATICALLY SUSPENDED.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

ASPEN CONSTRUCTION INC #41800 - FINDINGS OF FACT/CONCLUSIONS OF LAW

Dwain C. Bateson, President, Aspen Construction Inc, was not present, nor was anyone present on the Respondent's behalf.

MS. CAVIN MOVED TO ACCEPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Gregory questioned if a financial statement had been requested. Mr. Haney said he believed one had been submitted and that it was satisfactory.

MS. CAVIN MOVED TO PLACE A PERMANENT LETTER OF REPRIMAND INTO THE LICENSE FILE OF LICENSE #41800, ASPEN CONSTRUCTION INC; TO IMPOSE AN ADMINISTRATIVE FINE OF \$500 PER VIOLATION FOR A TOTAL OF \$3,500; AND TO IMPOSE THE RECOVERY OF THE INVESTIGATIVE COSTS OF \$6,198.13, TO BE PAID WITHIN 90 DAYS OR THE LICENSE WAS TO BE AUTOMATICALLY SUSPENDED.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

ADVISORY OPINIONS

1. **D N ANDERSON INC** – License Requirement to Bid Clark County Project, Bid No. 4797-00, Whitney Neighborhood Park Renovation

No one was present for the advisory opinion.

Ms. Mathias stated that B N Anderson had requested an advisory opinion as to whether or not, with a B license, he could act as the prime contractor on the project. The bid date was November 29.

The Board opined that either a B, B2, A, or AB license classification could act as the prime contractor based on work represented in Clark County's request to bid.

2. **HYDROKINETIC SYSTEMS INC** - City of Fallon Water Treatment Plant, Contract #1269

No one was present for the advisory opinion.

The City of Fallon was installing various types of filtration equipment for the purpose of testing water as described in Hydrokinetic's request. Hydrokinetic retained ownership of the equipment.

The Board opined that no license was required.

3. **AES CORPORATION** - Mohave Generating Station Power Plant

Brian Harris, Legal Counsel, was present to represent AES Corporation.

Ms. Mathias stated that AES was in the process of purchasing the Mohave Generation Station Power Plant. As the owner of the plant they were seeking an opinion regarding whether they needed a license to maintain and operate that plant. It was their intention to subcontract the maintenance operation of the plant to Southern California Edison.

Mr. Harris said Southern California Edison currently had a Class A, General Engineering license. AES was purchasing the plant from four different owners. Under the terms of the contract, AES would subcontract and keep Southern California Edison in place, for up to two years, to operate, maintain, and repair the plant utilizing their own employees. Thereafter, AES would apply for a contractor's license.

The Board opined that as owners of the plant, AES could subcontract out the work as long as they did not perform the work themselves.

APPLICATIONS

The following motion closed the meeting to the public.

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

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

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).

A B C FIRE EXTINGUISHER CO INC (C41 – Fire Protection) NEW APPLICATION, RECONSIDERATION

The license application had been considered on November 21, 2000 and had been approved, contingent upon changing the name. The applicant was requesting the use of A B C Fire and Cylinder Service.

Mark Buxton, Representative, was present. He was notified that the license application had been approved with a limit of \$10,000 and a \$2,000 bond.

BUILDING SOLUTIONS LLC (B2 – Residential & Small Commercial) NEW APPLICATION

Vickie Francovich, Manager, and Jeff Francovich, Member/QE, were present. They were notified that the license application had been approved with a limit of \$2 million and a \$50,000 bond.

STEVE BROWN CONSTRUCTION INC (A12, 15, 16, 19A – Excavate Grade Trench Surface; Sewers, Drains & Pipes; Paving Streets, Driveways, Lots; Pipeline & Conduits for Water) NEW APPLICATION

Suzanne Brown, Representative, was present. She was notified that the license application had been approved with a limit of \$650,000 and a \$20,000 bond.

CHASE WESTERN CUSTOM CABINETS INC (C3C – Cabinets & Millwork) NEW APPLICATION, NAME SIMILARITY, RECONSIDERATION

The license application had been considered on October 24, 2000 and had been approved, contingent upon passing the exams and changing the name. The applicant was requesting the use of Chase Western Custom Cabinets Inc.

Brett Zunino, President, was present. He was notified that the license application had been approved with a limit of \$15,000 and a \$5,000 bond.

COYNE ROOFING CO (C15A - Roofing) NEW APPLICATION, RECONSIDERATION

The license application had been considered on July 25, 2000 and had been denied for financial responsibility. The applicant was requesting reconsideration based on a financial statement dated November 2000 and a monetary gift to invest in the business.

Steve Coyne, Owner, was present. He was notified that the license application had been approved with a limit of \$15,000, a \$5,000 bond, and a financial review upon renewal, contingent upon proof of the deposit of the funds as represented.

BUILDERS OF AMERICA LLC (B2 – Residential & Small Commercial) NEW APPLICATION, RECONSIDERATION

The license application had been considered on August 22, 2000 and had been tabled for an interview.

Christine Stanford, Manager, and George Stanford, Previous License Holder, and Attorney Keith Gregory, were present.

Mr. Lyford stated that the last time the application came before the Board, it had been tabled for an interview to determine actual ownership. It was his opinion that the license was actually going to be used by George Stanford, who was not named on the license. He reminded the Board that Mr. Stanford had previously been licensed by the Board, and had expired in 1997. At the time it had expired, there had been 3 outstanding complaints. Mr. Stanford was currently on probation for charges he incurred in Pahrump. Mr. Lyford then requested that a full hearing be scheduled in order for him to present all evidence he had acquired, and to alert the Board as to who would be the one utilizing the license.

Attorney Gregory responded that he had met with Mr. Lyford and that Mr. Lyford had interviewed Kenny Williams, the Qualified Employee (QE) on the license. He said that Mr. Stanford did have a situation in Pahrump wherein he had contracted without a license. That matter had been resolved. Ms. Stanford was the managing member and Mr. Williams was the QE. There had been no objection to his qualifications. Mr. Stanford and the two aforementioned parties were the only employees of Builders of America. All would sign documents to that effect. Attorney Gregory said the company would only be using the license to build 8-12 single family residences a year on properties that they purchased through investors that put up the money.

Mr. Lyford commented that it was important to have the QE present to question his understanding of what he was supposed to do in his capacity as QE.

Mr. Haney questioned what had occurred on the prior license that Mr. Stanford held, and what involvement would Mr. Stanford have on the new license.

Mr. Lyford responded that the last license had been cancelled, not renewed, as of April 1, 1997. Four months later, pending complaints had been closed because the license had not been renewed. Those complaints were still outstanding, and the license had been flagged.

Mr. Haney said the Board needed to know if Mr. Stanford was going to be involved on the new license.

Attorney Gregory said Mr. Stanford was not listed on the license, but he would be involved in the business as an employee.

Mr. Haney then questioned if Mr. Stanford would have the power to sign contracts, checks,

to pay or not to pay people, or to perform work or cause work to be performed that might relate to his abilities or bring into question his prior activities.

Discussion then focused on the involvement of the District Attorney in Pahrump.

Attorney Gregory said Mr. Stanford pled guilty to contracting without a license and Mr. Stanford agreed to make restitution to one of the parties.

Mr. Reese then suggested making the exclusion of Mr. Stanford in a managerial capacity, exercising managerial power, a condition of the license. He would be limited strictly as an employee.

Discussion then focused on Ms. Stanford's tax liens. Attorney Gregory said he would provide the board with whatever it needed to prove resolution.

Attorney Gregory questioned if Mr. Stanford, as a licensed Real Estate Broker, could buy and sell property on behalf of the company.

Chairman Gregory added that Mr. Stanford could not act as real estate agent for a house that had not been built. He could not act in the capacity of the developer/contractor.

Attorney Gregory clarified that Mr. Stanford could only act in the capacity of the real estate agent, but he could not represent himself as the builder of the property, which would be Builders of America.

Mr. Lyford pointed out that a second entity was Equity Funding.

Attorney Gregory responded that Equity Funding was an escrow company, belonging to Mr. Stanford.

Mr. Lyford emphasized that the paper work was going through Equity Funding.

Mr. Reese clarified that a real estate company relationship with the company was not as an employee of the LLC. Mr. Carson suggested that Mr. Stanford not represent the seller of the home to a buyer, or the buyer who wanted to have a house built.

MR. CARSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$200,000, A \$50,000 BOND, A FINANCIAL REVIEW UPON RENEWAL, CONDITIONED UPON GEORGE STANFORD NOT HAVING ANY MANAGERIAL AUTHORITY WITHIN THE COMPANY TO SIGN CHECKS OR ENTER INTO CONTRACTS WITH SUBCONTRACTORS OR OWNERS OR TO EXECUTE ANY OBLIGATIONS ON BEHALF OF THE LLC OR THE LICENSE WOULD BE SUMMARILY SUSPENDED.

MR. SCHAEFER SECONDED THE MOTION. (MS. CAVIN WAS OPPOSED)

THE MOTION CARRIED.

CHIEF ROOFING INC (C15A – Roofing) NEW APPLICATION

Attorney Gregory was present to represent the owner, Bradley Carson, who was not present.

Attorney Gregory petitioned if he could amend the application to place Bradley Carson's father, Ivan Carson, former QE on Carson Roofing and Repair, on the license as the CMS Qualifier.

When questioned about the charge of contracting without a license, Attorney Gregory said the applicant had pled guilty in court to a misdemeanor and had paid the court the

investigative costs, on the basis that Bradley Carson would attempt to acquire a license.

The general consensus was to approve the license application with a limit of \$20,000 and a \$10,000 bond, contingent upon Bradley Carson taking the CMS exam within 60 days.

TRADITIONAL HOME BUILDERS (B2 – Residential & Small Commercial) NEW APPLICATION

TRADITIONAL HOME BUILDERS (C3A – Carpentry, Remodeling, Repairs) NEW APPLICATION

Jeff Shults, President, was present. He was notified that the B2 license application had been approved with a limit of \$500,000 and a \$15,000 bond, and the C3A license application had been approved with a limit of \$50,000 and a \$5,000 bond. Upon request by the applicant, the B2 license limit was later revised to \$750,000.

SYSTEMS DESIGN INC (C2E – Signal Systems) NEW APPLICATION

George Baker, QE, was present. He was notified that the license application had been approved with a limit of \$750,000 and a \$20,000 bond.

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 3, 6-7, 10, 12, 20, 23-24, 26, 38-40, and 44-52.

The application review was continued to later in the day to return to the regular agenda.

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

MS. CAVIN SECONDED THE MOTION.

THE MOTION CARRIED.

PRIMACK HOMES INC #39359 - SUMMARY SUSPENSION HEARING

Lloyd Philip Bouvier, President, was not present. Jordan S. Primack, QE, CEO/Secretary, was present and identified himself.

Mr. Lyford testified that investigations had received seven money-owing complaints within the last month and a half. An administrative meeting had been held on November 27, 2000. Mr. Ramsey had validated 6 of the complaints for an approximate total of \$225,000. There was another complaint still pending for approximately \$87,000. Within the administrative meeting, it had been determined from information gleaned from the representatives of Primack Homes that the Respondent was not disputing the claims, but that there were no funds available to pay the items claimed. The moneys could not be paid until homes under construction were completed.

The limit on the license was \$2.5 million.

Mr. Primack explained the financial problems that had been brought about by severe financial hardships brought on primarily by a lender/partner who needed financial assistance from Mr. Primack, but who eventually stopped contributing to the venture. Mr. Primack said he and his partner Lloyd Bouvier had each contributed over a quarter of a million dollars in cash to keep their ventures moving forward. Some of the debts had been satisfied, but most of the money they were expecting to receive would be over a two-year period of time. A major lender then stopped funding their construction loans in November because the company had missed paying their October payment. The lender had frozen funds and had refused to return them to the investors or disburse them to the subcontractors for work currently in place. The only source of money to pay subs was from either from loans the lender was holding or from the sale of the 29 homes, which were in

various stages of completion. The proceeds from the sale of the homes would allow considerable repayment to the subs. Withholds through escrow had been established to satisfy a significant portion, if not all claims, from the equity in his houses. Mr. Primack then spoke to customer service, which was handled by Pro Homes. Pro Homes was not able to complete all of the customer service right now, but they were doing some because some the subs were not responding, even though they had been paid in full. In closing, Mr. Primack requested the Board to consider a reprimand in light of his record and his history.

Under questioning, Mr. Primack was asked if he would have to seek relief in bankruptcy court. He responded that he and his partner were attempting to survive the problem. Mr. Primack then detailed what had gotten him into the mess he was in.

Mr. Gregory clarified there was no money to complete the homes short of selling product homes and finishing them.

It was determined that no financial statement had been provided, and that all permits had been pulled on the houses.

Mr. Primack was informed that under a summary suspension, work in progress could continue.

It was learned that Mr. Primack's son had acquired a new license on October 25, 2000. Mr. Primack was a member and QE on the new license.

Mr. Carson questioned the financial responsibility of the new license. It was learned the license had been indemnified by the manager.

MR. SCHAEFER MOVED TO SUMMARILY SUSPEND LICENSE #39359, PRIMACK HOMES INC.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

DISCIPLINARY HEARING

LAMPRECHT CONSTRUCTION #22004 - DISCIPLINARY HEARING

When the hearing began, Johannes Lamprecht, Owner, was not present. He arrived after the hearing had commenced.

Philip Baron, Complainant, and NSCB Investigators Bob Macke and Gary Hoid, were sworn in.

Brian McMahon, Legal Counsel representing Johannes Lamprecht, and Michael Springer, Legal Counsel representing Mr. Baron, were identified.

The Notice of Hearing and Administrative Complaint for the October 10, 2000 hearing, consisting of pages 1-35, had been mailed certified on August 21, 2000. The certified mail receipt was returned to NSCB on August 23, 2000.

A Request for Continuance was received on September 5, 2000, with follow-up correspondence received on September 11, 2000.

The Amended Notice of Hearing and Administrative Complaint for the November 7, 2000 hearing, consisting of pages 1-35, had been mailed certified on October 9, 2000, and faxed on October 10, 2000, following unsuccessful attempt to hand-deliver the Notice. The certified mail receipt had not been returned to NSCB as of November 7, 2000.

A Request for Continuance was received on October 17, 2000.

A Notice of Continued Hearing for the December 5, 2000, hearing had been mailed certified on November 3, 2000. A certified receipt was returned to NSCB on November 15, 2000.

An Amended Notice of Continued Hearing posting a changed time for the December 5, 2000, hearing had been mailed certified on November 22, 2000. The certified mail receipt had not been returned to NSCB as of December 5, 2000.

The hearing was for possible violations of NRS 624.3017 (1), workmanship which is not commensurate with standards of the trade in general or which is below the standards in the building or construction codes adopted by the city or county in which the work is performed; NRS 624.3013 (5), as evidenced by NAC 624.700 (3) (a), failure to comply with the law or regulations of the board by failing to comply with the notice to correct; NRS 624.3012 (3), failure to obtain the discharge or release of any lien recorded against the property to be improved by a construction project for the price of any materials or services rendered to the project by order of the Respondent, when the Respondent received sufficient money therefor as payment for the project, within 75 days after the recording of the lien; and NRS 624.3015 (2), bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the board.

Mr. Haney pointed out that Mr. Springer also represented Ms. Cavin and her company, J & J Mechanical. Mr. McMahon requested that Ms. Cavin disqualify herself, which she did.

Attorney McMahon said he had been the attorney of record on the case since its inception. He had not received anything from the State Contractor's Board. Everything had been sent to his client at the wrong address. The address had since been corrected.

Mr. Haney questioned if there was a dispute over the charge of contracting over the limit.

Mr. McMahon replied that there was no dispute over that charge, rather the dispute was over the bond.

Investigator Macke testified he had investigated the matter and found the workmanship issues to be below the standard of the trade in general.

Mr. McMahon said the workmanship issues were subject to Chapter 40 litigation. He did not believe the Board, under NRS 624, had jurisdiction over these issues.

Mr. Haney clarified that the statute had been changed in 1999, allowing the Board to move forward without regard to what the parties were doing regarding Chapter 40.

Johannes Lamprecht, Owner, arrived.

The notice of hearing was entered into the record as EXHIBIT 1, and the stipulation was signed.

Mr. Lamprecht was sworn in.

Mr. Haney recapped Mr. Macke's previous testimony.

Mr. Baron testified that items 1-33 made up his complaint against the Respondent. He stated that he had remedied most of the items. The lower bath slide door was found to be satisfactory, therefore item 1 was deleted. Mr. Baron then testified to the remaining items and to their current status. All items had been repaired with the exception of two, the two traces that came out at ground level. By code, the vent was supposed to be a certain level above the ground.

Mr. Haney pointed out that there was a dispute over whether or not the contractor had been allowed back on to the property.

Mr. Baron said he had moved into the premises on June 23, 1999. Mr. Lamprecht had been encouraged to finish the house, but Mr. Baron said Mr. Lamprecht had been noticeably absent. The last time Mr. Baron said he saw Mr. Lamprecht on the property was on July 26. On August 11, Mr. Lamprecht had been given a 48-hour notice to comply, and on August 13, he had been terminated.

Mr. Springer provided a series of correspondence representing the Chronology of Events, which was entered into the record as EXHIBIT 2.

Discussion then focused on the admission of the package into the record. Mr. McMahon objected because of the Chapter 40 issues and because the liens had been resolved. Those remaining were subject to arbitration.

Mr. Haney pointed out that the resolution of the liens had not been established. He stated that the documents were being offered to establish that there had been opportunity for the Respondent to return to the property to perform the repair work.

Mr. Springer added that Mr. Lamprecht had been terminated as of August 13 as a result of lack of communication and a lack of response to the communication sent to him. Mr. Springer stated that he had prepared a second package of documents, consisting of 9 separate exhibits, which was entered into the record as EXHIBIT 3.

Mr. McMahon objected to the exhibit because he said the items in it were not before the board and were prejudicial.

Mr. Springer replied that it had not been offered as a current representation.

Discussion then focused on when the complaint had been filed. It was determined the complaint had been filed after the Respondent had been terminated, but before the work had been repaired by other sources. Mr. Gregory questioned if the contractor had been allowed back on to the project after the termination notice. Mr. Springer replied no, and Mr. Baron said he did not want him back, adding that Mr. Lamprecht had been given every opportunity before that time.

Mr. McMahon stipulated to the fourth cause of action.

Mr. Gregory wanted to know what was going on with the liens. Mr. McMahon replied that the only one that was pending that he was aware of was Bill's Paving, who was pursuing attorney's fees and interest. They had been paid \$6,000.

Mr. Baron and Mr. Springer both countered that they had had not received anything stating that liens had been removed from the property.

Mr. McMahon read a letter from Frank Torres, NSCB Deputy Director, indicating that Bill's Paving had been paid.

Mr. Springer pointed out that the lien itself was a separate issue. It was then confirmed that the matter for which Mr. McMahon had received the letter was a separate matter.

Mr. McMahon agreed that the lien was still on the property, clarifying that Lamprecht Construction itself did not have a lien against the property.

Mr. Gregory summarized that the Respondent was terminated prior to the complaint coming before the Board. The only issue to be addressed by all parties was if the Respondent was not allowed back onto the property, the Board could not do much to help.

Mr. Johnson suggested continuing the hearing until the matter had gone to court.

Mr. Schaefer and Mr. Carson agreed.

Mr. McMahon countered that he wanted to put on his case regarding all of the items now.

Mr. Lamprecht testified that he was the contractor responsible for the work performed at the Baron property. He said he had reviewed the State Contractors' Board notice to correct, and that he had made an offer to return to the property and address the items listed therein. Mr. Baron had refused access to the residence. Mr. Lamprecht said he had been refused at least three times, starting in August 1999. Mr. Lamprecht said he did not agree with some of the items noted on the correction notice. He said some items had been forcibly caused by other factors and by other work installed separately and apart from the contract.

It was then learned that construction had started the third week in June 1998. Substantial completion had been on June 23, 1998, which Mr. Lamprecht said had been unlawful, but Mr. Springer said that the Barons had been issued a temporary certificate of occupancy. The Certificate of Occupancy had been issued on July 28, 1998. The complaint had been filed in September 1999, and Investigator Macke had made his inspection on December 3, 1999. The initial inspection had occurred earlier by a former investigator of the Board

The evidentiary portion of the hearing was closed.

MR. CARSON MOVED TO CONTINUE THE MATTER UNTIL AFTER ARBITRATION WAS COMPLETED.

MR. JOHNSON SECONDED THE MOTION.

THE MOTION CARRIED.

For the record, Ms. Cavin did not participate or vote.

APPLICATIONS (Continued)

The following motion closed the meeting to the public.

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

MR. SCHAEFER SECONDED THE MOTION.

THE MOTION CARRIED.

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).

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 53, 54, 57-59, 61-65, 71, 78-80, 97, and 100; and on the amended agenda: Nos. 4 and 16.

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

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

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

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

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 3:10 p.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman