

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:



LAS VEGAS
2310 Corporate Circle
Suite 200
Henderson, Nevada 89074
(702) 486-1100
Fax (702) 486-1190
Investigations (702) 486-1110

www.nscb.state.nv.us

RENO
9670 Gateway Drive, Suite 100
Reno, Nevada 89521
(775) 688-1141
Fax (775) 688-1271
Investigations (775) 688-1150

STATE CONTRACTORS BOARD

MINUTES OF THE MEETING

March 29, 2005

These are DRAFT minutes not yet ratified by the Board.

CALL TO ORDER:

Board Member Michael Zech called the meeting of the State Contractors Board to order at 8:30 a.m., Tuesday, March 29, 2005, State Contractors Board, Henderson and Reno, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Jerry Higgins
Mr. Michael Zech

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. George Lyford, Director of Investigations
Mr. Daniel Hammack, Chief of Enforcement

LEGAL COUNSEL PRESENT:

Mr. Bruce Robb, Esq., Legal Counsel
Ms. Laura Browning, Esq., Legal Counsel

Mr. Lyford stated Investigator Jim Ables posted the agenda in compliance with the open meeting law on March 21, 2005, at Las Vegas City Hall, Sawyer State Building and Clark County Library. The agenda was also posted in both offices of the Board, Henderson and Reno and on the Board Internet Website.

ADJUDICATING BOARD MEMBER: MICHAEL ZECH

1. DISCIPLINARY HEARING:

WEST COAST FRAMING, LLC, LICENSE NO. 55624

Licensee was present with Counsel T. Louis Palazzo, Esq.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from George Lyford to T. Louis Palazzo, Esq. dated February 11, 2005.

Hearing Officer Zech continued this matter for 90 days to allow the Respondent to provide a financial statement prepared by a Certified Public Accountant. License number 55624, West Coast Framing, LLC will remain suspended.

2. DISCIPLINARY HEARING:**CHIEF ROOFING, INC.,** LICENSE NO. 51260

Licensee was present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Three estimates to repair the substandard work at the Gutierrez residence.

Hearing Officer Zech found Respondent Chief Roofing, Inc., Bradley I. Carson, President, license number 51260 guilty of Three (3) violations of NRS 624.3017(1) substandard workmanship; Three (3) violations of NRS 624.3013(5), as set forth NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; Four (4) violations of NRS 624.302(5) failure to cooperate in an investigation; Two (2) violations of NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the building laws of the State or of any political subdivision thereof; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contracts he enters into for construction work within this state, the number of his license and monetary limit placed upon his license; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Notice to owner; NRS 624.3011(1)(b)(4) willful or deliberate disregard and violation of the laws of this state regarding industrial insurance; NRS 624.3016(7) misrepresentation or omission of a material fact. License number 51260, Chief Roofing, Inc. was Revoked. Mr. Carson was assessed a fine of \$500.00 for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Causes of Action for a total fine of \$9,000.00. Mr. Carson is to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$3,851.00.

3. DISCIPLINARY HEARING:**SPORTS INTERNATIONAL, INC.,** LICENSE NO. 53551

Licensee was present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Fax from Labor Express Temp Service to the Contractors Board dated February 7, 2005.

Hearing Officer Zech found Respondent Sports International, Inc., Lawrence S. Zale, President, license number 53551 guilty of violation of NRS 624.3012(2) failure to pay money when due for materials or services rendered; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with written request from the Board for information or records; NRS 624.302(5) failure to cooperate in an investigation. Mr. Zale was assessed a fine of \$1,000.00 for the First, Second, Third and Fourth Causes of Action for a total fine of \$4,000.00. The Fifth Cause of Action was dismissed. Fine was stayed for One (1) year after the license is reactivated with the stipulation that if there are no complaints filed within that time the fines will be cancelled. Investigative costs were assessed in the amount of \$1,599.00 and are to be paid within 90 days after the license is reinstated or license number 53551, Sports International, Inc. will be automatically Suspended. Mr. Zale is to continue payment plan with Labor Express Temp Service.

4. DISCIPLINARY HEARING:**S L R PLUMBING AND HEATING,** LICENSE NO. 39555

Licensee was present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer found Respondent Steven C. Ruppert, dba S L R Plumbing & Heating, license number 39555 guilty of violation of NRS 624.3012(2) failure to pay money when due for materials or services rendered; NRS 624.3013(3) failure to establish financial reasonability; NRS 624.302(6) failure to comply with written request from the Board for information or records; NRS 624.3013(4) failure to keep in force the bond or cash deposit for the full period required by the Board. Mr. Ruppert was assessed a fine of \$1,000.00 for the First, Second and Third Causes of Action for a total fine of \$3,000.00. Investigative costs were assessed in the amount of \$1,507.00. Fines and Investigative costs are to be paid within 60 days from March 29, 2005 or license number 39555, Steven C. Ruppert, dba S L R Plumbing & Heating will automatically be Revoked. Mr. Ruppert is to make restitution to Sage Construction in the amount of \$2,200.00 within 60 days from March 29, 2005 or license number 39555, Steven C. Ruppert, dba S L R Plumbing & Heating will automatically be Suspended. A Permanent Letter of Reprimand will be placed in the Respondent's file for One (1) year for the First, Second, Third and Fourth Causes of Action.

5. DISCIPLINARY HEARING:

LEGACY CONSTRUCTION ENTERPRISES, LICENSE NO. 50647 (Continued from February 23, 2005)

Licensee was present.

The following Respondent Exhibits were entered.

Exhibit A – Proposal from C & W Enterprises, Inc. dated January 12, 2004.

Exhibit B – Letter from Olympus Construction to Legacy Construction Enterprises dated April 29, 2004.

This matter was continued from the February 23, 2005 Board Meeting to allow the Respondent to be present.

Hearing Officer Zech found Respondent Andy J. Kay, dba Legacy Construction Enterprises, license number 50647 guilty of violation of NRS 624.3012(2) failure to pay money when due for materials or services; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with written request from the Board for information or records. License number 50647, Andy J. Kay, dba Legacy Construction Enterprises is Suspended until the Board receives a financial statement prepared by a Certified Public Accountant that supports the monetary limit on the license. If the financial statement does not support the monetary license limit, Respondent will go before the Board for financial review. Mr. Kay was assessed a fine of \$1,000.00 for the First Cause of Action. The Second Cause of Action was dismissed. Investigative costs were assessed in the amount of \$2,017.00. Mr. Kay is to make restitution to C & W Enterprises, Inc. in the amount of \$12,550.05. Fines, costs and restitution is to be paid within 30 days from March 29, 2005 or license number 50647, Andy J. Kay, dba Legacy Construction Enterprises will automatically be Suspended. A Permanent Letter of Reprimand will be placed in the Respondent's file for the Third and Fourth Causes of Action. The Respondent is ordered to submit to a Business Review within 30 days from March 29, 2005. The result of the Business Review will be presented to the Executive Officer. The Respondent will be provided a billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative cost will result in the Suspension of the license.

6. DISCIPLINARY HEARING:

SEALCOAT, INC., LICENSE NO. 47633

NU TURF, INC., LICENSE NO. 57615

Licensee was present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Zech found Respondent Sealcoat, Inc., Joe D. Wadkins, President, license number 47633 and Nu Turf, Inc., Joe D. Wadkins, President, license number 57615 guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; NRS 624.302(5) failure to cooperate in an investigation; NRS 3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contract he enters into for construction work within this State, the number of his license and any monetary limit placed upon his license; NRS 624.3018(2) association of any act or omission constituting a cause for disciplinary action. Mr. Wadkins was assessed a fine of \$1,000.00 for the First, Second and Third Causes of Action for a total fine of \$3,000.00. The Fourth and Fifth Causes of Action were dismissed. Fines were stayed for One (1) year with the stipulation that if no workmanship complaints are filed within that time the complaints will be cancelled. Investigative costs were assessed in the amount of \$1,407.00 and are to be paid within 90 days from March 29, 2005 or license number 57615, Sealcoat, Inc. will automatically be Suspended. A Permanent Letter of Reprimand will be placed in the Respondent's file for the First, Second, Third, Sixth and Seventh Causes of Action.

7. DISCIPLINARY HEARING:

PACIFIC CONCEPTS, LICENSE NO. 35736 (Continued from February 23, 2005)

Licensee was present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Dickson contract.

Exhibit 3 – Payments made by Ms. Dickson to Pacific Concepts, copies of invoices.

Exhibit 4 – Copies of costs, permits and plans for the Dickson residence.

Exhibit 5 – Fax from Ms. Dickson to Paul Easton dated March 28, 2005.

Exhibit 6 – Last page of Partnership Agreement between Bobby Von Luker, Jr. and Oliver Lovato.

Exhibit 7 – Transaction verification report from Contractors Board to Pacific Concepts.

Exhibit 8 – Transaction verification report from Contractors Board to Pacific Concepts.

The following Respondent Exhibits were entered:

Exhibit A – Statement from Howard Simonton dated January 20, 2005.

Exhibit B – Statement from Stephen Callighen.

This matter was continued from the February 23, 2005 Board Meeting at the request of the Licensee.

Hearing Officer Zech found Respondent Bobby Von Luker, Jr., dba Pacific Concepts, license number 35736 guilty of Two (2) violations of NRS 624.3017(1) substandard workmanship; Two (2) violations of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; Three (3) violations of NRS 624.302(5) failure to cooperate in an investigation; NRS 624.301(4) willful failure to refusal without legal excuse to prosecute with reasonable diligence, causing material injury to another; Two (2) violations of NRS 624.3015(2) bidding to contract for a sum for one construction contract in excess of the limit placed on the license by the Board; NRS 624.3013(3)

failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contracts he enters into for construction work within this State, the number of his license and monetary limit placed upon his license; NRS 624.3016(6) failure to comply with NRS 624.600 which are required disclosure by general building contractors; NRS 624.301(1) abandonment; NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify the Board change of address or personnel within 30 days after the change occurs. License number 35726, Bobby Von Luker, Jr., dba Pacific Concepts will remain suspended until the Board receives a current financial statement prepared by a Certified Public Accountant. Mr. Von Luker, Jr. was assessed a fine of \$1,000.00 for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, Thirteenth, Fourteenth and Eighteenth Causes of Action for a total fine of \$11,000.00. The Sixteenth and Seventeenth Causes of Action were dismissed. Mr. Luker, Jr. is to make monetary restitution to Ms. Paige Haldeman and Ms. Mary Dickson or hire licensed contractors to complete workmanship issues. Fines, costs and restitution is to be paid within 90 days or license number 35736, Bobby Von Luker, Jr., dba Pacific Concepts will automatically be Revoked. Mr. Luker, Jr. is to provide current address and phone number to the Board. A Permanent Letter of Reprimand will be placed in the Respondent's file for the Eighth, Tenth, Eleventh, Twelfth, Fifteenth and Nineteenth Causes of Action. The Respondent is ordered to submit to a Business Review within 90 days from March 29, 2005. The result of the Business Review will be presented to the Executive Officer. The Respondent will be provided a billing and will reimburse the Board for the cost of the Business Review within 10 days of receipt of the billing. Failure to submit to the Business Review or reimburse the Board the investigative cost will result in the Suspension of the license.

8. DISCIPLINARY HEARING – DEFAULT ORDERS:

a. PRIDE FIRE PROTECTION, LLC, LICENSE NO. 54873

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Exhibit 2 – Letter from Pride Fire Protection, LLC dated March 18, 2005.

Hearing Officer Zech found Respondent Pride Fire Protection, Scott B. Bekemeyer, Manager, license number 54873 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Bekemeyer was found guilty of violation of NRS 624.3012(2) failure to pay money when due for materials or services; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with written request from the Board for information or records. License number 54873, Pride Fire Protection was Revoked. Mr. Bekemeyer is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,074.00 and any expenses that may be paid out of the Residential Recovery Fund.

b. PACIFIC SWIMMING POOL PLASTER, LICENSE NO. 46842

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Zech found Respondent William M. Vint, Jr., dba Pacific Swimming Pool Plaster, license number 46842 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Vint, Jr. was found guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS

624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.3016(5), as set forth in NRS 597.719(2)(d) and NAC 624.6958(2)(d) failure to provide an estimated date of completion of all work to be performed pursuant to the contract; NRS 624.3016(5), as set forth in NRS 597.719(2)(h) and NAC 624.6958(2)(i) failure to provide disclosures and other notices and forms required pursuant to federal, state or local law; NRS 624.3016(5), as set forth in NRS 597.719(3)(b)(2) and NAC 624.6958(2)(l) failure to provide notice of owner's right to request a bond for payment and performance; NRS 624.3016(5), as set forth in NRS 597.719(3)(b)(1) failure to provide notice stating the owner may contact the Board if assistance is needed to clarify any of the provisions of the contract that the owner does not fully understand; NRS 624.3016(5), as set forth in NAC 624.6958(2)(n) failure to provide each subcontractor or supplier prompt and full payment upon completion of each stage or phase of construction; NRS 624.3016(5), as set forth in NRS 624.6958(2)(o) failure to provide owner a full and unconditional release from any claim of mechanic's lien for that portion of work for which payment was made; NRS 624.3016(5), as set forth in NRS 597.716(5) failure to provide written statement explaining the rights of the customer; NRS 624.3016(5), as set forth in NRS 624.600 name, license number, business address and telephone number of all subcontractors and all persons who furnished material of the value of \$500 or more; NRS 624.3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contracts he enters into for construction work within this State, the number of his license and any monetary limit placed upon his license; NRS 624.302(5) failure to cooperate in an investigation. License number 46842, William M. Vint, Jr., dba Pacific Swimming Pool Plaster was Revoked. Mr. Vint, Jr. is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$1,278.00 and any expenses that may be paid out of the Residential Recovery Fund.

c. DESERT STRUCTURES, INC., DBA FOUR SEASONS SUNROOMS, LICENSE NO. 49443

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Zech found Respondent Desert Structures, Inc., dba Four Seasons Sunrooms, Charles L. Smyers, President, license number 49443 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Smyers was found guilty of violation of NRS 624.3017(1) substandard workmanship; NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; NRS 624.301(4) failure to comply with the terms of a construction contract or written warranty, thereby causing material injury to another; NRS 624.3011(1)(b)(1) willful or deliberate disregard and violation of the Building Laws of the State or of any political subdivision thereof; NRS 624.301(2) abandonment of a construction project when the percentage of the project completed is less than the percentage of the total price of the contract; NRS 624.301(1) abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with written request from the Board for information or records; NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund Notice to owner; NRS 624.302(5) failure to cooperate in an investigation. License number 49443, Desert Structures, Inc., dba Four Seasons Sunrooms was Revoked. Mr. Smyers is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$2,995.00 and any expenses that may be paid out of the Residential Recovery Fund.

d. ASPHALT SERVICES OF NEVADA, INC., LICENSE NO. 53346

Licensee was not present.

The following Agency Exhibits were entered.

Exhibit 1 – Board Hearing File.

Hearing Officer Zech found Respondent Asphalt Services of Nevada, Inc., John S. Sweeney, license

number 53346 in default and adopted the Findings of Fact and Conclusions of Law as set forth in the Administrative complaint. Mr. Sweeney was found guilty of violation of NRS 624.3012(2) failure to pay money when due for any materials or services; NRS 624.301(4) failure to prosecute a construction project with reasonable diligence, thereby causing material injury to another; NRS 624.3013(3) failure to establish financial responsibility; NRS 624.302(6) failure to comply with a written request from the Board for information or records; NRS 624.302(5) failure to cooperate in an investigation; NRS 624.3013(4) failure to keep in force the bond or cash deposit for the full period required by the Board; NRS 624.3013(5), as set forth in NAC 624.640(5) each licensee shall include in all bids he submits or contracts he enters into for construction work within this State, the number of his license and any monetary limit placed upon his license. License number 53346, Asphalt Services of Nevada, Inc. was Revoked. Mr. Sweeney is required to pay full restitution to the damaged parties and reimburse the Board for Investigative costs of \$4,064.00 and any expenses that may be paid out of the Residential Recovery Fund.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Zech at 1:45 p.m.

Respectfully Submitted,

Traci Greenlee, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Michael Zech, Hearing Officer