

JIM GIBBONS
Governor

STATE OF NEVADA



STATE CONTRACTORS BOARD

MINUTES OF THE MEETING

June 24, 2009

REPLY TO:

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

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RENO
9670 Gateway Drive, Suite 100
Reno, Nevada 89521
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MEMBERS
Guy M. Wells, Chairman
Kevin E. Burke
Michael Efstratis
John C. Ellison
Jerry Higgins
Nathaniel W. Hodgson, III
William "Bruce" King

CALL TO ORDER:

Hearing Officer Burke called the meeting of the State Contractors Board to order at 8:30 a.m., Wednesday, June 24, 2009, 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. Kevin Burke, Chairman
Mr. Jerry Higgins
Mr. Nathaniel Hodgson

STAFF MEMBERS PRESENT:

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

LEGAL COUNSEL PRESENT:

Mr. Jonathan Andrews, Esq., Legal Counsel
Mr. David Brown, Esq., Legal Counsel

Ms. Grein stated the agenda was posted in compliance with the open meeting law on June 18, 2009 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: KEVIN BURKE

1. DISCIPLINARY HEARING: (Re-Hearing Request – Default Hearing from May 27, 2009)

BOBBY WAYN LANG, dba OMEGA AIR CONDITIONING, License No.14580

Licensee was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – The Respondent's Answer to the Board's Complaint.

Hearing Officer Burke found Respondent guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$250.00 for the First Cause of Action; a fine of \$500.00 for the Second Cause of Action for total fines of \$750.00 and investigative costs in the amount of \$1,950.00. Hearing Officer Burke reinstated the license to active status and the Default Order was cancelled. Fines and costs to be paid within thirty (30) days of the June 24, 2009 Board Hearing, Respondent is ordered to resolve all outstanding claims against its license and to obtain a \$40,000.00 surety bond within ninety (90) days of the June 24, 2009 Board Hearing or license number 14580, Bobby Wayn Lang, dba Omega Air Conditioning will be suspended.

2. DISCIPLINARY HEARING:

VRATSINAS CONSTRUCTION COMPANY, License No. 28391

Licensee was present with counsel, Martin Little, Esq.

Three witnesses testified for the Board.

One witness testified for the Respondent.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

The following Respondent's Exhibits were entered:

Exhibit A – The Respondent's Answer to the Board's Complaint.

Exhibit B – The Respondent's Motion to Dismiss the Complaint.

Exhibit C – The Respondent's Hearing Brief.

Exhibit D – The Respondent's Hearing Exhibits.

This matter was dismissed.

3. DISCIPLINARY HEARING: (Stipulated Revocations)

a. CORDELL CONSTRUCTION, License No. 62897

L. P. DEVELOPMENT, LLC, dba LANDREVILLE AND PIRES DEVELOPMENT, License No. 66584

Licensee was not present.

Ms. Cherisse Nicastro, homeowner, was present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – The Respondent's letter stipulating to the revocation of his license.

Hearing Officer Burke found Respondent guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility;

one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee; one (1) violation of NRS 624.301(4) failure to prosecute a construction project with reasonable diligence. Respondent was assessed a total fine of \$1,000.00 and investigative costs of \$2,976.00, license number 62897, Cordell Construction and license number 66584, L. P. Development, LLC, dba Landreville and Pires Development, were revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

b. SABR CONSTRUCTION, LLC, License Nos. 67976, 68818 (Continued from May 27, 2009)

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – The Respondent's letter stipulating to the revocation of his license.

Hearing Officer Burke found Respondent guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a total fine of \$750.00 and investigative costs of \$2,274.00. License numbers 67976 and 68818, Sabr Construction, LLC were revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

c. DAWN FRAMING, INC., License No. 20190

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – The Respondent's letter stipulating to the revocation of his license.

Hearing Officer Burke found Respondent guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$500.00 and investigative costs of \$1,290.00. License number 20190, Dawn Framing, Inc., was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

d. OAK CREEK ENTERPRISES, INC., dba MR. ROOTER PLUMBING, License Nos. 53520, 60026

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – The Respondent's letter stipulating to the revocation of his license.

Hearing Officer Burke found Respondent guilty of one (1) violation of NRS 624.305(1) no license may be used for any purpose by any person other than the person to whom license is issued; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.650(1) a licensee shall not permit his business to be operated by an unlicensed person; one (1) violation of NRS 624.3013(5), as set forth in NRS 624.260 failure to demonstrate experience, knowledge and financial responsibility; one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one (1) violation of NRS 624.3013(5), as set forth in NRS 624.600(1)(a)(b) failure to comply with furnishing name, license number, business address and phone number; all persons who furnish material of the value of \$500.00 or more to be used in the project; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a total fine of \$4,000.00 and investigative costs of \$2,256.00. License numbers 53520 and 60026, Oak Creek Enterprises, Inc., dba Mr. Rooter Plumbing, were revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

e. IDI Icon Development, Inc., dba Attar Builders, License No. 56505

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Exhibit 2 – The Respondent's letter stipulating to the revocation of his license.

Hearing Officer Burke found Respondent guilty of one (1) violation NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$500.00 and investigative costs of \$2,166.00. License number 56505, IDI Icon Development, Inc., dba Attar Builders was revoked. Respondent was ordered to make full restitution to all damaged parties and reimburse the Board for any monies paid out of the Residential Recovery Fund plus fines and investigative costs prior to consideration of future licensure.

4. DISCIPLINARY HEARING – DEFAULT ORDERS

a. PRO-LINE CONSTRUCTION, INC., License Nos. 58619, 65063

PRO LINE FRAME, LLC, License No. 69559

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Pro-Line Construction, Inc., license numbers 58619 and 65063, Bradley Dean Westphall, President and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Westphall was found guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one (1) violation of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; one (1) violation of NRS 624.302(5) failure to respond to a written

request from the Board; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a fine of \$2,250.00 and investigative costs in the amount of \$1,630.00. License numbers 58619 and 65063, Pro-Line Construction, Inc., and license number 69559, Pro-Line Frame, LLC, were revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

b. CHARLES LEROY DURKIN, dba COUNTRY CUPBOARDS, License No. 35521

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Charles Leroy Durkin, dba Country Cupboards, license number 35521, Charles Leroy Durkin, Owner and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Durkin was found guilty of one (1) violation of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one (1) violation of NRS 624.301(2) abandonment of construction project when percentage completed is less than percentage of total contract paid; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel; one (1) violation of 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 the license and any monetary limit placed upon his license; one (1) violation of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$3,750.00 and investigative costs in the amount of \$1,407.00. License number 35521, Charles Leroy Durkin, dba Country Cupboards, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

c. MEDINA CONSULTING, LLC, License No. 60441

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Medina Consulting, LLC, license number 60441, Jose Luis Medina, Jr., Member, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Medina was found guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(4) failure to keep Bond in force; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$1,500.00 and investigative costs in the amount of \$1,482.00. License number 60441, Medina Consulting, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

d. BATTLE BORN AIR CONDITIONING AND HEATING, LLC, License No. 68812

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Battle Born Air Conditioning and Heating, LLC, license number 63964, Earl Joseph Barbeau, Jr., Manager and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Barbeau was found guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with the Board's Notice to Correct; one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one violation of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner. Respondent was assessed a total fine of \$2,000.00 and investigative costs in the amount of \$1,314.00. License number 68812, Battle Born Air Conditioning and Heating, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

e. C & G UNION, LLC, License No. 72053

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent C & G Union, LLC, license number 72053, Charles Nathan Finkel, Manager and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Finkel was found guilty of one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3015(2) bidding in excess of the limit placed on the license by the Board; one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel. Respondent was assessed a total fine of \$1,500.00 and investigative costs in the amount of \$1,381.00. License number 72053, C & G Union, LLC, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

f. SUMMERLIN PLUMBING AND DRAIN SERVICE, INC., License No. 57131

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Summerlin Plumbing and Drain Service, Inc., license number 57131, Michelle Therese Simmons, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Ms. Simmons was found guilty of one (1) violation of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; one (1) violation of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a total fine of \$1,500.00 and

investigative costs in the amount of \$1,269.00. License number 57131, Summerlin Plumbing and Drain Service, Inc., was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

g. ASSOCIATED MECHANICAL, INC., License Nos. 65744, 68163

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Associated Mechanical, Inc., license numbers 65744 and 68163, Brian P. Reynolds, President, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Reynolds was found guilty of one (1) violation of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a fine of \$1,250.00 and investigative costs in the amount of \$1,913.00. License numbers 65744 and 68163, Associated Mechanical, Inc., were revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

h. MARK KNIGHT, OWNER, dba CONSTRUCTION DEVELOPMENT INTEGRATED, License No. 69481

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Mark Knight, dba Construction Development Integrated, license number 69481, Mark Knight, Owner, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Knight was found guilty of one (1) violation of NRS 624.3017(1) substandard workmanship; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; one (1) violation of NRS 624.3012(3) failure to obtain the discharge or release of any lien recorded against the property; one (1) violation of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; one (1) violation of NRS 624.3013(5), as set forth in NAC 624.640(3) failure to notify Board of change of address or personnel; one (1) violation of NRS 624.3013(4) failure to keep bond in force; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent was assessed a fine of \$3,250.00 and investigative costs in the amount of \$2,093.00. License number 69481, Mark Knight, Owner, dba Construction Development Integrated, was revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

i. EUGENE DUNN RAY, OWNER, dba E. DUNN HOME IMPROVEMENTS, License No. 45191

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Eugene Dunn Ray, dba E. Dunn Home Improvements, license number 45191, Eugene Dunn Ray, Owner and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Ray was found guilty of five (5) violations of NRS 624.301(5) failure to comply with the terms of the construction contract, thereby causing material injury to another; two (2) violations of NRS 624.301(4) failure to prosecute a construction project with reasonable diligence; four (4) violations of NRS 624.302(5) failure to comply with a written request by the Board; four (4) violations of NRS 624.3013(5), as set forth in NRS 624.520(1) failure to provide Residential Recovery Fund notice to owner; three (3) violations of NRS 624.3013(5), as set forth in NAC 624.700(3)(a) failure to comply with Board's Notice to Correct; three (3) violations of NRS 624.301(2) abandonment of construction project when percentage completed is less than percentage of total contract paid; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility. Respondent has filed Chapter 7 Bankruptcy so fines and costs were not assessed. License number 45191, Eugene Dunn Ray, Owner, dba E. Dunn Home Improvements, was revoked.

j. MASSENGALE CONSTRUCTION CO., INC., License No. 45191

MASSENGALE CONSTRUCTION CO., INC., dba MORGAN TAYLOR FRAMING AND DRYWALL, License No. 57407

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent Massengale Construction Co., Inc., license number 45191 Marlon Thomas Massengale, President and Qualified Individual and Massengale Construction Co., Inc., dba Morgan Taylor Framing and Drywall, license number 57407, Marlon Thomas Massengale, President and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. Massengale was found guilty of three (3) violations of NRS 624.302(5) failure to respond to a written request from the Board; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3018(2) certain persons are prohibited from serving as officer, director, associate or partner of licensee. Respondent was assessed a fine of \$1,250.00 and investigative costs in the amount of \$2,685.00. License number 45191, Massengale Construction Co., Inc., and license number 57407, Massengale Construction Co., Inc., dba Morgan Taylor Framing and Drywall, were revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

k. McINTIRE DEVELOPMENT & CONSTRUCTION, LLC, dba MDC CONSTRUCTION, License No. 56399

Licensee was not present.

The following Agency Exhibits were entered:

Exhibit 1 – Board Hearing File.

Hearing Officer Burke found Respondent McIntire Development and Construction, LLC, dba MDC Construction, license number 56399, Ronnie Darrel McIntire, Manager and Qualified Individual, in default and adopted the Findings of Fact and Conclusion of Law as set forth in the Administrative complaint. Mr. McIntire was found guilty of three (3) violations of NRS 624.3012(1) willful failure to pay any money when due for materials or service; one (1) violation of NRS 624.3013(3) failure to establish financial responsibility; one (1) violation of NRS 624.3013(4) failure to keep bond in force. Respondent was assessed a fine of \$2,500.00 and investigative costs in the amount of \$1,751.00. License number 56399, McIntire Development & Construction, LLC, dba MDC Construction, was

revoked. Respondent was ordered to pay full restitution to the damaged parties and reimburse the Board for any monies paid out of the Residential Recovery fund plus fines and investigative costs prior to consideration of future licensure.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned by Hearing Officer Burke at 10:42 a.m.

Respectfully Submitted,

Janet Brinkley, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kevin Burke, Hearing Officer