

MINUTES

244th Meeting Contractors' Registration and Licensing Board December 9, 2009

(A) The meeting was called to order by the Chairman, Felix Carlone, at 12:50 PM.

(B) Approval of the agenda and order of business was accepted on a motion by Mr. Richard Welch and seconded by Mr. Dave Caldwell.

(C) The minutes of the 243rd meeting were approved on a motion by Mr. Arthur Salisbury and seconded by Mr. Richard Welch

Before the business of the meeting preceded, Mr. William Nash, the Building Official from the Town of Warren, the new Building Official appointed by the Governor at the suggestion of the Building Commissioner, was introduced to the members, staff and legal counsel.

(D) Court Case Update: November / December 2009

**Contractors' Registration & Licensing Board: Nov. / Dec. 2009
Funds Collected Via AG Prosecution or Settlement Agreement**

Defendant Fine Restitution Victim

Ogilvie \$160 Zeigelmayer

Marr III \$40 Lamphere

Giordano \$1,000 Blais

Richards III \$250 Bannister

Thomasian \$100 Spacone

M. Iarossi \$1,133 W. Jarvie

Latraverse \$550 Rezendes

Rhynard \$100 Silva

Watkins \$2,500 Rossi

Houghton \$100 --- #4024

TOTAL \$ 100 \$ 5,833.00

Total fines and restitution: \$5,833.00

Contractors' Registration & Licensing Board: November / December 2009

Court Ordered Dispositions

Defendant Fine Restitution Victim

Shawn Murphy \$500 \$19,985 O'Dell

Scott Parker \$500 \$ #6347

Peter Cavanaugh \$8,950 Elmasian

Alexander \$500 \$3,197.31 L'Etoile

King	\$1000	\$5,615	Peters
Thibodeau	\$500	\$7,625	Salvo

TOTAL \$ 3,000 \$ 45,372.31

Total fines and restitution: \$ 48,372.31

Warrants Ordered for Failure to Appear in Court:

Defendant Registration #

Nicholas Hoyt 31390

AG Felony Charges Brought:

Defendant	Registration#
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Michael McAteer	-----
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John Hoegen	19148
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(E) Consideration of Cases on Appeal and Oral Argument:

1.) 12:40 PM, Claim # 6965, Sherri Murray vs. VB Construction, Victor Berry Jr., Registration # 26586, exceptions filed by the Respondent's attorney J. Russell Jackson, Esq. At the request of Attorney Jackson, this matter was continued again until next month for a possible

settlement regarding lien on the property.

2.) 12:50 PM, Claim #6919, Rangel vs. Jamie Fontes, Juniors Home Improvements Registration #31430, exceptions filed by contractor. Both parties were in attendance and the Respondent presented his case in this regard. He felt he had performed 60% of the work and the hearing officer didn't take this into consideration with the decision rendered. The homeowner testified that most of the work that was performed needs to be corrected due to the damage caused from water leaks. The Board, after several questions and review of the documents in the file, on a motion by Mr. Ladouceur and seconded by Mr. Welch, upheld the decision of the hearing officer. Motion carried with Mr. Cardoza voting in the negative. Therefore the following decision will be issued: exceptions were timely filed by the RESPONDENT, Jamie Fontes, Juniors Home Improvements, registration #31430, and the appeal was heard by the full Board on December 9, 2009. The contractor was looking for a reduction in the amount due to the CLAIMANT by the decision rendered by the hearing officer. Both parties were in attendance and the exceptions filed were reviewed and the case argued before the Board. After discussion and several questions by the Board members, and a review of the file, the Board decided to uphold the decision of the hearing officer.

Therefore; based on the testimony and evidence presented at the administrative hearing

the RESPONDENT is ORDERED to pay the CLAIMANT, Marta Rangel,

the amount

of \$8,732.93. Payment is due in the form of a certified check or money order within

30 days of the issuance date of this ORDER. Furthermore, fines in the amount of

\$3,000.00 are assessed against the RESPONDENT for violating Rhode Island General

Law's 5-65-10(a) (11): Breach of contract, 5-65-10(a) (12); negligent and improper work,

& 5-65-10(3); fraudulent and dishonest conduct; 5-65-18; mechanics lien clause in the

contract & 5-65-3(p); 3 day right of rescission clause in clause, and 5-65-10(a)(7);

substantially violating the Rhode Island State Building Code. Furthermore a fine in the

amount of \$5,000.00 is assessed against the RESPONDENT pursuant to RIGL 5-65-10(c)(1).

Note: By violating section R301.2 (1)(3)(a) of the R.I. State Building Code, the

RESPONDENT'S action has placed the garage structure that he framed in serious jeopardy

as it will probably have to be entirely taken down. The RESPONDENT'S registration

#31430 will be SUSPENDED in 30 days if the RESPONDENT fails to fulfill this ORDER.

3.) 1:00 PM, File #3309 violation #6, John Ribeiro, Absalute Flooring, exceptions filed by the Respondent; registration # 23018. After notice and opportunity to be heard on this matter the Respondent failed to attend the appeal meeting and the Board Unanimously voted on a motion by Mr. Welch and seconded by Mr. Furey to uphold the decision rendered by the hearing officer and deny the appeal. Therefore the following decision will be issued: The RESPONDENT, John Ribeiro, doing business as Absalute Flooring, a non-registered entity, and All State Flooring registration #23018, having filed exceptions timely with the Board for appeal was heard by the full Board on December 9, 2009. The contractor did not show at the appeal hearing that he requested and the Board after waiting 45 minutes unanimously upheld the decision rendered by the hearing officer in this regard. Therefore: based on the evidence and testimony presented at the administrative hearing, the RESPONDENT is assessed a fine in the amount of \$5,000 for violation of Rhode Island General Law Section 5-65-10(a) (3). Payment is due within 30 thirty days of the receipt date of this ORDER in the form of a certified check or money order payable to the State of Rhode Island Contractors' Registration and Licensing Board. Additionally, the RESPONDENT's registration # 23018 remains REVOKED until such time as this ORDER and all outstanding ORDERS issued by the Board are fulfilled, and the full Board is petitioned for reinstatement of the registration.

4.) 1:20 PM, Motion to review REVOKED registration status of Morry

Corp., A. Morris Williams, filed by the Respondent; registration # 28171. Upon review and discussion by the Board a motion was made by Richard Welch and seconded by Ron Caniglia to DENY Mr. Morris Williams request to change the status of your registration #28171, and it will remain REVOKED until such time as all the outstanding orders issued by the Board are resolved and fines paid. At that time you can re-petition the Board for reinstatement. Motion passed unanimously.

5.) 1:30 PM, Motion to review REVOKED registration status of Robert Carson, Apex Builders, filed by the Respondent's attorney Jonathan Stanzler; registration

11981. This matter is filed in Superior Court on appeal and the attorney was looking for a stay on the Revoked status of his client. After much discussion and many questions by the Board members, a motion was made by Mr. Welch and seconded by Mr. Ladouceur to deny this request and keep the status as revoked. After further discussion the motion carried with Tom Fury and Bob Cardoza voting against the motion.

EXPUNGEMENTS:

(1.) 1:40 PM, Request for expungement of claim # 1645, filed by Raymond M. Thibeault, Raymond Thibeault Home Improvement, registration #2313. Motion made by Felix Carlone and seconded by Richard Welch to expunge record. Upon review and discussion by

the Board a decision was made to EXPUNGE CLAIM # 1645 from your record. Motion carried unanimously.

(2.) 1:45 PM, Request for expungement of: claims'190,264,269,271,294,393,424,484,505,2762 and violation #1352, #1 & 2 and 1850 #1 & 2 filed by Kevin Sweet, KESCO, registration #2648. Attorney Costello

And Kevin Sweet requested that they be heard by the Board on one claim and one violation; and then review the concern of the Board going forward with putting information retroactively on the web site regarding hearing notices. The first matter heard was file # 1850, violation #1 which was a matter that was dismissed at an administrative hearing back in October of 1996. After much discussion and many questions a motion was made by Felix Carlone and seconded by Ed Ladouceur to expunge. Motion carried unanimously. The other matter was claim #484 which was also dismissed in the hearing process was also reviewed and discussed. A motion was made by Felix and seconded by Ed Ladouceur to expunge which was unanimous. In regard to the notice of hearing, after much discussion and very good arguments it was decided that Mr. Sweet's legal council and the Board's council would submit briefs or documentation on this matter which will be reviewed at the Boards next meeting. Mr. J.L.Brillion recused himself from participation in any discussion on this matter and filed the recusal form for the Ethics Commission.

(F) Report of the Executive Director and Staff:

(1) Statistics Report: 12/9/09

Registrations:

Number of Registered Contractors	12147		
Number of Cards Surrendered	4852	Number of Cards	Expired/Lapsed
14673	Number of Cards Invalidated	937	
Number of Cards Suspended	452		
Number of Cards Revoked	76		

Registration Actions 11/04/09-12/09/09

Number of New Registered Contractors	80		
Number of Renewed Contractors	12067		
Number of Cards Surrendered	35		
Registrations Invalidated	1	Registrations Suspended	2
Registrations Revoked	0		

Claims:

Administrative Appeals	7
Board Appeals	3
Address Trace	121
Awaiting Further Action	51

Court

Disposed		5811
Final Orders	33	
Hearings	52	
Out of State Services	50	Proposed Orders 76
Under Investigation		104
Total Claims Filed with the Board		6828

Number of New Claims 27
 11/04/2009-12/09/2009

Violations:

Action Against Registration	19	
Non-Registered Subcontractors		7
Advertising	17	
Cancelled Insurance		1029
Notice of Hearing	4	
Non-Registered Contractors		779

TOTAL RECORDS 1855

Number of New Violations 14 11/04/2009-12/09/2009

Lapsed Registrations/Never Re-Newed:

January 2009	84
February 2009	98

March 2009	87	
April	2009	
111		
May	2009	114
June	2009	
96		
July	2009	
86		
August	2009	
90		
September	2009	
134		
October	2009	
162		
November	2009	
176		

Month

Tickets Issued

Fines

February	4
\$3,500.00	
March	2
\$ 600.00	
April	8
\$6,250.00	

May	8
\$4,700.00	
June	16
\$5,300.00	
July	6
\$3,250.00	
August	3
\$ 800.00	
September	3
\$1,600.00	
October	3
\$1,650.00	
November	2
\$6,000.00	

Commercial Roofers: 12/09/2009

Number registered	130
Number surrendered	14
Number invalidated	43
Number suspended	0
Number revoked	0
Pending approval	0

Registration Actions; 11/04/2009-12/09/2009

Number of New Registered Contractors	0
Number of Renewed Roofer Contractors	129
Number of Cards Surrendered	0
Number of Expired/Lapsed	0
Registrations Invalidated	0
Registrations Suspended	0
Registrations Revoked	0

(G) Old Business: Due to a lack of time all matters were continued until next months meeting.

(1) Review of regulations, laws and standards, established by sub-committee, report of committees and progress;

(H) New Business: Due to a lack of time all matters except for the retention schedule were continued until next months meeting.

(1) Current status on positions and funding from restricted receipt account;

(3) Study Commission;

(4) Insurance coverage, roofing-sub;

(5) Legislation and H-5609;.

(6) Computer Software Program & move to (DBR);

(7) NASCLA-Code Books;

(8) Appointments, One new appointment made so far;

(9) Credit Report.

Retention Schedule: It was decided that a committee consisting of Dave Caldwell, Tom Furey, Ed Ladouceur and Felix Carlone would meet to discuss and review the adopted schedule and make recommendations to the full Board next month regarding any suggested changes.

(I) Public Comment: None.

(J) Announcements: The next Board meeting is scheduled for Wednesday

January 13, 2010 at 12:30 PM Conference
Room "A", 2nd Floor,
One Capitol Hill;

(K) Adjournment: A motion was made by Dave Caldwell and seconded by Tom Furey

to adjourn at 4:05 PM.

Members Present: D. Caldwell, R. Welch, A. Salisbury, F. Carlone, R. Cardoza, T. Furey

P. Brunetti, W. Nash, R. Caniglia, JL Brillon, E. Ladouceur, and
S. Carlino.

**Members Absent: S. Gianlorenzo, B. Calcagni and E. Anderson,
both who have resigned
from the Board and positions are pending new
appointments.**

**Others Present: George Whalen (Executive Director), Special
Assistant Attorney General Christine Hetherington (legal counsel),
stenographer, staff and parties for
appeals and motions.**

Respectfully Submitted,

**George W. Whalen
Executive Director
Rhode Island Contractors' Registration and Licensing Board**