

MINUTES

264th Meeting Contractors' Registration and Licensing Board November 09, 2011

(A) The meeting was called to order by the Chairman, Felix Carlone, at 12:40 PM.

(B) Approval of the agenda and order of business was accepted on a motion by Mr. Art Salisbury seconded by Mr. Paul Brunetti.

(C) The minutes of the 263rd meeting were approved on a motion by Mr. Arthur Salisbury and seconded by Mr. Dave Caldwell.

(D) Court Case Update:

October 2011: Court Ordered Restitution/Fines:

Contactors	Claim/File	Fines	Restitution	Complainant
Hoyt 7134	-	\$3,700		Roth
Hoyt 7386	-	\$2,525		Norton
Barishian 7330	-	\$65,000		Fandozzi

Totals: Fines \$0.00 Restitution \$71,225.00

TOTAL: \$71,225.00

October 2011: Funds Received Via AG's Office:

Contactors Claim/File Fines Restitution Complainant

Marr 4480 - \$50 Lamphere

Lima 7474 - \$1,000 Aneyci

Bouffard 3046 100 \$610 Nevin

Totals: Fines \$100 Restitution \$1,660.00

TOTAL: \$1,760.00

Warrants Issued/Outstanding:

Anthony, William Reg. #15074 Bridgewater, ME

Spears, Edmund Reg. #26303 W. Kingston, RI

Lewis, Kevin Reg. #26019 Chepachet, RI

Carreiro, Carlos Reg. #17043 W. Warwick, RI

Gallagher, William Reg. #20300 East Greenwich, RI

Gonsalves, Joseph Reg. #22785 Johnston, RI

(E) Consideration of Cases on Appeal and Oral Argument:

1.) 12:40 PM, Claim #7590; Registration #32132; Appeal of Proposed Order in regard to Claim #7590; Clifford vs. Ferretti, Bathrooms by Design, Inc.; exceptions filed by the Respondent. Both parties were in attendance and the Respondent presented his exceptions and a letter from his legal counsel for consideration. The

homeowner also testified in regard to this matter and the Board asked questions of both parties. After discussion and review of the file, the Board on a motion by Felix Carlone, the chairman, and second by Edgar Ladouceur, elected to uphold the decision rendered by the hearing officer. The motion carried unanimously. Therefore the following order will be issued. This matter was appealed to the Board by the RESPONDENT, Inna Ferretti, Bathrooms by Design, Inc, registration #32132, for consideration of the exceptions filed regarding notice and opportunity to be heard in regard to this claim. Both parties were in attendance and the Respondent presented his exceptions and an affidavit from his legal counselor for consideration. The homeowner also testified in regard to this matter and the Board asked questions of both parties. After much discussion and review of the file; the Board, upheld the decision rendered by the hearing officer. Therefore; based on the testimony and evidence presented at the administrative hearing, a fine in the amount of \$10,000.00 is assessed against the RESPONDENT for violating Rhode Island General Law 5-65-10 (a) (13); (advertising with a license number instead of using a registration number); RIGL 5-65-18 (mechanics lien notice); RIGL 5-65-10(a)(7); (substantially violated state or local building codes); RIGL 5-65-10(a) (11) (breached contract); RIGL 5-65-10(a)(12)(negligent and/or improper work), RIGL 5-65-10(a) (14) (failed to complete a construction project) In addition, the RESPONDENT shall pay the CLAIMANT, Ann Clifford, the amount of \$13,355.00: this amount includes a refund of

the \$12,950.00 paid to the RESPONDENT; \$380.00 the CLAIMANT paid to Discount Disposal for container service and the \$25.00 claim filing fee pursuant to RIGL 5-65-12(a). Payment is due in the form of a certified check or money order within thirty days of the issuance date of this ORDER. The RESPONDEDNT'S registration #32132 is SUSPENDED until such time as this ORDER is fulfilled.

2.) 1:00 PM, Claim #7611; Registration #30340; Appeal of Proposed Order in regard to

Claim #7611; Eley vs. Boisse, Boisse's Home Improvement, LLC; exceptions filed by the Respondent. Both parties were in attendance and the RESPONDENT having filed exceptions proceeded to present exceptions. David Fontaine began presenting before the Board the reasons Boisse Home Improvement should not have been ordered to return the materials purchased by the homeowner. After a brief presentation, one of the Board members questioned Mr. Fontaine in regard to his involvement with Boisse's Home Improvement. After conflicting responses from the parties the Executive Director stated that the record indicated that this was not a partnership but was listed as Boisse's Home Improvement, LLC, when Mr. Fontaine was asked if he was a member of the limited liability company he said he was not, but he was a registered contractor. When this was brought to the Boards attention the chair asked Mr. Boisse to present the exceptions in regard to this matter. Mr. Boisse presented to the Board and fielded a multitude of questions from the members. The

claimant also testified and was asked questions by the members. The Board members were very concerned that the contract failed to have a right of rescission clause, mechanics lien notice as well as registration number as part of the contract document, as required by rules and regulation as well as general law. Another concern express was the materials that were removed from the property which were paid for by the Claimant. Upon much discussion, a review of the evidence especially the pictures that were presented as part of the exhibits and other contents in the file. A motion was made by Felix Carlone and seconded by Edgar Ladouceur to modify the decision rendered by the hearing officer. Therefore the following order will be issued: The RESPONDENT, Eric Boisse, Boisse's Home Improvement, LLC, registration #30340, filed written exceptions of the proposed order and the matter was heard before the Board on November 9, 2011. The Board after listening to testimony from both parties and reviewing the record and file, elected to modify the decision issued by the hearing officer. Concerns were expressed by the Board that no right of rescission clause was provided in the contract. Therefore; the following Order is issued: The RESPONDENT was found to have violated Rhode Island General Law 5-65-18 (all written contracts entered into between a contractor under this chapter and a property owner must contain a statement that the contractor, sub-contractor or material person may file a lien in accordance with the Rhode Island Mechanics Lien Act, Chapter 28 of Title 34, RIGL 5-65-22 (display of certificate of registration, all contractors subject to the provision of this chapter must include their

certificate of registration number on all contracts and any form of advertising.) As a result; the RESPONDENT shall pay an administrative penalty of \$20,000.00 pursuant to RIGL 5-65-10(c) (1); however, this fine could be reduced to \$15,000.00 if the CLAIMANT is refunded \$1,250.00, the amount of the new trusses. The Board could not give a monetary award to the CLAIMANTS because the waiver of jury trial form was not signed by the RESPONDENT. Additionally; the RESPONDENT shall return to the CLAIMANT all the unused material, in "like new" condition in its entirety. The actual list of materials to be returned will be made by the Board's Investigator Michael Scallon. This list will be based upon Exhibit #3 (Beauchemin Lumber Companies Invoice dated (5-16-11) which reflects the total amount of materials delivered to the job site and Exhibit #4 (photos which the CLAIMANT submitted) which clearly depicts all the used material. The RESPONDENTS registration #30340 is SUSPENDED and will remain so until such time as this and all outstanding ORDERS issued by the Board are fulfilled.

Concerns were expressed by the members that comments were made by Respondent during the hearing regarding "burn it", and because of the outstanding no contact order between the parties, Board wanted to make sure that appropriate measures be taken to assure the health and safety of the claimant and their property. The Boards executive director and legal counsel will review the record and take action deemed appropriate to bring this to the attention of the proper authorities.

3.) 1:20 PM, Claim #7584; Registration #33864; Appeal of Proposed Order in regard to Claim #7584; Bolduc vs. Santos, D & A property and home improvement LLC; exceptions filed by the Respondent. At the request of the Respondent's attorney, this matter was continued until next month.

4.) 1:30 PM, Claim #7515; Registration #21994; Appeal of Proposed Order in regard to Claim #7515; Bolduc vs. Torres; exceptions filed by the Respondent. At the request of the Respondent's attorney, this matter was continued until next month.

5.) 1:40 PM, Claim #7612; Registration #33864; Norton vs. Santos, D & A Property and Home Improvement LLC.; exceptions filed by the Respondent. At the request of the Respondent's attorney, this matter was continued until next month.

EXPUNGEMENTS:

1.) 2:00 PM, Registration #24525, Coast to Coast Construction, Matthew Boudreau, Expungement request for Claim #6566, & Claim# 7066, as well as violation file #8257, Insurance. The Contractor failed to attend but one of the claimants showed and testified before the Board. He requested that the record not be expunged. After waiting for contractor who never showed, the Board on a motion by the Chair and seconded by Ed Ladouceur and Steve Gianlorenzo, rejected the

expungement and included in the motion that no further motions on expungements would be heard by the Board for at least a one year time frame. Motion passed unanimously.

(F) Report of the Executive Director and Staff:

(1) Statistics Report: 11/09/2011

Registrations:

Number of Registered Contractors	11603		
Number of Cards Surrendered	5584	Number of Cards	Expired/Lapsed
16079	Number of Cards Invalidated	1060	
Number of Cards Suspended	492		
Number of Cards Revoked	97		

Registration Actions 10/12/2011-11/09/11

Number of New Registered Contractors	88		
Number of Renewed Contractors	11515		
Number of Cards Surrendered	30		
Registrations Invalidated	1	Registrations Suspended	10
Registrations Revoked	3		

Claims:

Administrative Appeals		3	
Board Appeals	5		
Address Trace	83		
Awaiting Further Action		31	
			Court
	619		
Disposed			6246
Final Orders	47		
Hearings	34		
Out of State Services	24	Proposed Orders	111
Under Investigation			100

Total Claims Filed with the Board 7298

Number of New Claims Processed 30

10/12/2011-11/09/2011

Violations:

Action Against Registration	25	
Advertising	3	
Non-Registered Subcontractors		18
Cancelled Insurance		1422
Notice of Hearing	4	

Non-Registered Contractors

841

TOTAL RECORDS

2313

Number of New Violations 19

10/12/2011-11/09/2011

Lapsed Registrations/Never Re-Newed:

September 2010

92

October 2010

94

November 2010

54

December 2010

56

January 2011

55

February 2011

69

March 2011

85

April 2011

97

May 2011

90

June	2011
99	
July	2011
61	
August	2011
85	
September	2011
127	
October	2011
138	

Month	# Tickets Issued
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Fines

January	0
\$00.00	
February	1
\$250.00	
March	1
\$550.00	
April	2
\$1,000.00	
May	3
\$800.00	
June	3
\$1,500.00	

July	5
\$2,000.00	
August	0
\$ 00.00	
September	1
\$250	
October	2
\$750	
November	4
\$2,000.00	

Commercial Roofers: 11/09/2011

Number registered	137
Number surrendered	16
Number invalidated	54
Number suspended	1
Number revoked	0
Pending approval	0

Registration Actions; 10/12/2011-11/09/2011

Number of New Registered Contractors	0
Number of Renewed Roofer Contractors	137
Number of Cards Surrendered	0

Number of Expired/Lapsed	0
Registrations Invalidated	0
Registrations Suspended	0
Registrations Revoked	0

(G) Old Business:

(1.) Review of regulations, laws and standards, established by sub-committee,

report of committees and progress. No meetings have been held yet on this matter and no further progress. Legal Counsel and the Executive Director will meet to review these standards further and then bring modifications to sub-committee for discussion when time permits. Work has been proceeding with the education requirements and hopefully they will be ready by the beginning of next year.

(H) New Business:

(1.) Budget: Funds are slated to be utilized to purchase new card machines and

in the future with new software to be ready for picture identification cards.

Concerns were expressed by the executive director regarding

expenditures from the boards restricted receipt account. The amount of

**\$191,114.00 was targeted to be charged to the Boards
Restricted Receipt**

**Account for services the Commission will be
rendering. Currently this
fiscal year the Boards projected receipts are \$1,
411,600.00.**

**(2.) Computer Software Program Update on Progress (DBR),
CAVU; Board**

**has been proceeding and making progress. Projected date
early next year
currently working on testing program and data transfer.**

**(3.) Retention Schedule; Legal counsel discussed with the Board
some possible**

**modifications to the schedule which will be given more
consideration in
the near future.**

**(4.) Board was advised that the position of investigator posted in
mid June has**

**still not been released to have interviews and hire.
Additionally; another
staff member retired who works the counter so we are down
to one person**

at the counter. Currently the Board is down four (4)

positions or about

25% staff reduction. Work continues to accumulate regarding violations,

and claims are not being processed or investigated as quickly as in the

past due to reductions. These staff reductions have had a impact on the

enforcement aspect of the Boards operation which has resulted in a loss of

revenue.

(5.) Legislation; Home Inspector legislation may be submitted early in the

session to try and implement this unfunded program. Additional legislation may be submitted regarding requiring code books to be issued

to each registrant as part of registration fee, insurance cancellation

modifications, commercial roofing requirements and felony modification

for repeat offenders.

(6.) Education: Currently we are working with the Rhode Island

Builders Association in developing criteria for continuing education as

well as possible classes.

(7.) NASCLA: Public service invitation was provided to Board members to

get to schools interested in getting a scholarship award, deadline of mid

January 2012 is fast approaching. Meeting of Executive Board and Model

Legislation Committee schedule for mid January in Utah.

(8.) Request for Proposal: The Board working with the Department of Labor

was included in an RFP to seek testing companies to provide the RICRLB

with an avenue to test Home Inspectors and Commercial Roofers. Will be

reviewing candidates for possible selection.

(I) Public Comment: None

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

December 14, 2011 at 12:30 PM Conference Room "A", 2nd

Floor, One Capitol Hill, Providence, Rhode Island.

(K) Adjournment: A motion was made by Mr. Felix Carlone and seconded by Mr.

Tom Furey to adjourn at 2:40 PM.

Members Present: A. Salisbury, E. Ladouceur, Martin Ezeama, William Geddes, David Caldwell, R. Cardoza, Felix Carlone, Paul Brunetti, T Furey, S.Gianlorenzo, W. Nash and R.Caniglia.

Members Absent: E. Anderson, who resigned from the Board, J. Lawrence Brillon, and Steven Carlino.

Others Present: George Whalen (Executive Director), Christy Hetherington (Attorney Generals Office, legal counsel), stenographer, staff and parties for appeals, motions and expungements.

Respectfully Submitted,

George W. Whalen

Executive Director

Rhode Island Contractors' Registration and Licensing Board