

1-30-98

Final Order No. BPR-98-03017 Date 5-11-98

FILED

Dept. of Business and Professional Regulation

AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nichols

**STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

-vs-

CASE NO.: 94-19471
DOAH CASE NO.: 96-5764
LICENSE NO.: CG C014083
CC C056695

FILED
JUL 15 AM 11:10
DIVISION OF
ADMINISTRATIVE
HEARINGS

AT

DRA-CLOS

JOHN V. McCRAVE,

Respondent.

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board (hereinafter referred to as the "Board") pursuant to Section 120.57(1)(j), F.S., on April 9, 1998, in Tampa, Florida, for consideration of the Recommended Order (a copy of which is attached hereto and incorporated herein by reference) issued by the Administrative Law Judge in the above styled case. The Petitioner was represented by Cate O'Dowd. The Respondent was present and was represented by Michael T. Kovach, Esq. At the Board meeting, Mr. Kovach presented the Respondent's exceptions to the Administrative Law Judge's Recommended Order which were considered and rejected by the Board.

Upon consideration of the Administrative Law Judge's Recommended Order and the arguments of the parties and after a review of the complete record in this matter, the Board makes the following findings:

FINDINGS OF FACT

1. The Administrative Law Judge's Findings of Fact are hereby approved and adopted and incorporated herein by reference.

2. There is clear and convincing evidence to support the Administrative Law Judge's Findings of Fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provisions of Section 120.57(1), and Chapter 489, Florida Statutes.

2. The Administrative Law Judge's Conclusions of Law, are hereby approved and adopted in toto and incorporated herein by reference.

3. Respondent is guilty of violating Section 455.227(1)(a); 489.129(1)(c), (h)2., (k), (m) and (r), F.S.

4. There is clear and convincing evidence to support the Board's findings and conclusions.

RECOMMENDED PENALTY

1. The Administrative Law Judge's Recommended Penalty is hereby approved and adopted and incorporated by reference.

2. In accordance with Paragraph 32 of the Recommended Order, the Respondent shall also be required to pay investigative costs in the amount of \$3,703.16 to the Board.

EXCEPTIONS

The Respondent's Exceptions To Recommended Order are hereby rejected.

THEREFORE, IT IS ORDERED AND ADJUDGED:

1. Respondent shall pay to the Board a fine of Four Thousand, Seven Hundred and Fifty Dollars (\$4,750.00), costs in the amount of Three Thousand, Seven Hundred, Three Dollars and Sixteen Cents (\$3,703.16), and provide written proof satisfactory to the

Board's Executive Director of having paid restitution of Forty-Four Thousand, Two Hundred, Eighty-Six Dollars and Twenty Cents (\$44,286.20) to Joan Branca, or in the alternative provide written proof satisfactory to the Board's Executive Director of having satisfied the Final Judgment in Citrus County Circuit Court case number 94-922-CA. Said fine, costs and restitution shall be paid in thirty (30) days.

To assure payment of the fine, costs and restitution, it is further ordered that all of Respondent's licensure to practice contracting shall be suspended with the imposition of the suspension being stayed for thirty (30) days. If the ordered fine, costs and restitution are paid within that thirty (30) day period, the suspension imposed shall not take effect. If the licensee does not pay the fine, costs and restitution, within the required period, then immediately upon expiration of the stay, he shall surrender his licensure to an investigator of the Department of Business and Professional Regulation or shall mail it to the Board office, at 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467. Upon payment of the fine, costs and restitution after the thirty (30) days, the suspension imposed shall be lifted; in no event shall Respondent resume use of Respondent's licensure under this provision until notified in writing by the Executive Director that said licensure has been restored to good standing.

In addition, the Respondent will be required to pay interest on fines due to the Board at a rate of 18% per annum, beginning on the thirty-first (31st) day after the issuance of the final order.

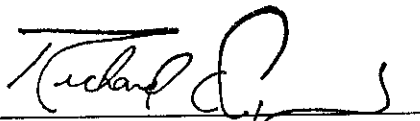
A change in your licensure status, including the suspension, revocation, voluntary relinquishment, or involuntary relinquishment of your license does not relieve you of your obligation to pay any fines, costs, interest, or restitution imposed in this order.

Pursuant to Section 120.68, Florida Statutes, the Parties are hereby notified that they may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of The

Department of Business and Professional Regulation, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0792, and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

This Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 5th day of May, 1998.


RICHARD PEPIN, Chair
Construction Industry Licensing
Board

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: John V. Mc Crave, P.O. Box 128, Inverness, FL 34451; Michael T. Kovach, Esquire, 203 Courthouse Square, Inverness, FL 34450;

and by hand delivery/United States Mail to Cate O'Dowd, Esq., 9325 Bay Plaza Blvd., Suite 210, Tampa, FL 33619, and to the Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467, on or before 5:00p.m., this 11th day of May, 1998.

Brandon M. Nichols