

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

vs.

ROBERT LOEFFLER,

Respondent.

CASE NO.: 96-02512

DOAH CASE NO.: 97-2141

LICENSE NO.: CG C040314

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 February 12, 1998, in Jacksonville, 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 not present but was represented by James J. Dean, Esq., at the Board meeting.

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, except for Paragraphs 16 and 17 which are hereby rejected. The Board hereby accepts the Petitioner's exceptions and hereby adopts and incorporates by reference Paragraphs 2.a.-g. of the Petitioner's exceptions in place of Paragraphs 16 and 17 of the Recommended Order.

3. Respondent is guilty of violating Section 489.129(1)(r), F.S.

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

RECOMMENDED PENALTY

1. The Board hereby modifies the Administrative Law Judge's Recommended Penalty by increasing the administrative fine to \$1,250.00, imposing investigative costs in the amount of \$132.09, and requiring restitution in the amount of \$40,512.13 to Anthony and Sheila Pirrone, or in the alternative, providing written proof satisfactory to the Board's Executive Director of having obtained an Acknowledgment of Satisfaction from Anthony and Sheila Pirrone and requiring reimbursement to the Construction Industries Recovery Fund in the amount of \$25,000.00. These modifications are based on the Board's Conclusion of Law that the Respondent is guilty of violating Section 489.129(1)(r), F.S.

THEREFORE, IT IS ORDERED AND ADJUDGED:

1. Respondent shall pay to the Board a fine of One Thousand, Two Hundred and Fifty Dollars (\$1,250.00), costs in the amount of One Hundred, Thirty-Two Dollars and Nine Cents (\$132.09), and provide written proof satisfactory to the Board's Executive Director of having paid restitution of Forty Thousand, Five Hundred, Twelve Dollars and Thirteen Cents (\$40,512.13) to Anthony and Sheila Pirrone, or, in the alternative provide written proof satisfactory to the Board's Executive Director of having obtained an Acknowledgment of Satisfaction from Anthony and Sheila Pirrones and reimburse the Construction Industries Recovery Fund \$25,000.00. Said fine, costs and restitution shall be paid or obtained 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 and obtained 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 and receipt 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 16th day of March, 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: Robert Loeffler, 761 S.W. 18th Street, Boca Raton, FL 33486-7030 P.O. Box 641, Denver, NC 28037 James J. Dean, Esquire, P.O. Box 1836, Tallahassee, FL 32302-1836 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 19th day of March, 1998.

Sarah Wachman