

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND )  
PROFESSIONAL REGULATION, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 01-3573PL  
 )  
ROBERT P. CORBETT, d/b/a )  
CORBETT'S MOBILE HOME CENTER, )  
 )  
Respondent. )  
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RECOMMENDED ORDER

A hearing was held pursuant to notice on November 20, 2001, by Barbara J. Staros, assigned Administrative Law Judge of the Division of Administrative Hearings, in Live Oak, Florida.

APPEARANCES

For Petitioner: Laura P. Gaffney, Esquire  
Department of Business and  
Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0792

For Respondent: Robert P. Corbett, pro se  
1126 East Howard Street  
Live Oak, Florida 32064

STATEMENT OF THE ISSUE

Whether Respondent committed the offenses set forth in the Administrative Complaint and, if so, what penalty should be imposed.

PRELIMINARY STATEMENT

Petitioner, Department of Business and Professional Regulation (Department), filed an Administrative Complaint on July 19, 2001, alleging that Respondent practiced electrical contracting without being duly certified or licensed.

Respondent disputed the allegations in the Administrative Complaint and requested a formal administrative hearing. The case was referred to the Division of Administrative Hearings on or about September 10, 2001. A formal hearing was set for November 20, 2001.

At hearing, Petitioner presented testimony of four witnesses, Les Smith, Pat Sura, Carol Pike, and Steve Frazier. Petitioner's Exhibits numbered 1-7 were admitted into evidence. Respondent testified on his own behalf and did not offer any exhibits into evidence.

The hearing was not transcribed. Petitioner and Respondent filed post-hearing submissions on November 28 and 29, 2001, respectively.

FINDINGS OF FACT

1. Petitioner, the Department of Business and Professional Regulation (Department), is a state agency charged with the duty and responsibility of regulating the practice of electrical contracting pursuant to Chapters 20, 455, and 489, Florida Statutes.

2. At no time material hereto has Respondent been certified or licensed as an electrical contractor pursuant to Chapter 489, Part II, Florida Statutes.

3. In September 1997, Respondent contracted with William and Carol Pike of McAlpin, Florida, for the installation of a room addition to the Pike's mobile home. The addition was not new, but had been used by a previous customer. The addition was to be connected to the main part of the house. The installation of the addition was completed in October 1997. The Pikes paid the full contract price of \$8,636.00 to Respondent for the installation of the addition.

4. The installation of the room addition required certain electrical work including: the addition had to be wired to the existing mobile home; electrical outlets and lights were wired into the addition; and a new outside light was added at the back door.

5. The Pikes did not have any problems with the wiring of the room addition until April 6, 2001, when a power outage occurred in the area resulting in the Pike's losing electrical power. When the electricity was restored, the Pikes still had no electricity in the room addition.

6. The Pikes contacted the local power company and upon checking, the Pikes were informed that the problem was inside their home.

7. The morning after the power outage, the Pikes called Corbett's Mobile Home Center in an effort to get someone out to their home that day for the needed repairs. Robert Corbett was out of town and they were unable to reach anyone there who could come out to the Pike's home that day which was a Saturday. The Pike's then called Steve Frazier at Santa Fe Electrical Services, to check out the problem.

8. Upon examination, Mr. Frazier found several problems with the electrical wiring under the house including open splices, wires spliced together, hot and ground wires reversed and no junction boxes on the wire junctions. Mr. Frazier recommended that the Pikes contact the original contractor to fix the problem and to leave the breaker off for their safety.

9. The Pikes contacted Respondent and Respondent sent "Billy" to the Pike's residence on Tuesday, April 10, 2001. Billy was unable to correct the problem. The Pikes requested that Respondent send out the original permit with the repairmen. Respondent sent Billy and another person out to attempt to fix the problem but they were unsuccessful in doing so and did not bring any permit. The Pikes were not comfortable with what they perceived to be the level of competency of these employees of Respondent and they asked the men to leave.

10. The Pikes then hired Steve Frazier to correct the wiring problems with the room addition. The electrical work performed by Frazier to correct the wiring problems included: re-wiring and running new wire to outlets; installation of several junction boxes; and repairing open splices in the walls and ceiling. Mr. Frazier obtained the appropriate permit, completed the work of rewiring and obtained a final inspection which was approved. The Pikes paid \$855.00 to Santa Fe Electrical Services for this repair work.

11. The Pikes filed a complaint with the Suwannee County Licensing Board. According to Pat Sura, a building inspector with the Suwannee County Building Department, the installation of the room addition is akin to the construction of an addition at a site and requires an electrical license and a permit. This differs from wiring a double-wide mobile home together, as that does not require a permit.

12. The Department incurred investigative costs in the amount of \$659.48 in this case.

#### CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction over the parties and subject matter in this case, Sections 120.569 and 120.57, Florida Statutes.

14. Petitioner is the state agency charged with regulating the practice of electrical contracting pursuant to Chapters 455 and 489, Florida Statutes.

15. Because Respondent is subject to penal sanctions, including the imposition of an administrative penalty, the Department has the burden of proving by clear and convincing evidence the specific allegations in the Administrative Complaint. See, e.g., Department of Banking and Finance v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996).

16. "Contracting" is defined as engaging in business as a contractor, or performing electrical work for compensation. Section 489.505(9), Florida Statutes.

17. "Electrical contractor" is defined in pertinent part as follows:

. . . any person, firm, or corporation that engages in the business of electrical contracting under an express or implied contract; or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of electrical contracting; or that does itself or by or through others engage in the business of electrical contracting.

Section 489.505(12), Florida Statutes.

18. The electrical work completed by Respondent in the work on the Pike's residence constitutes engaging in the practice of electrical contracting.

19. The Administrative Complaint alleges that Respondent violated Subsection 489.531(1)(a), Florida Statutes, by practicing contracting without being duly certified. The Department has met its burden of proof.

20. Subsections 455.228(1) and (3)(c), Florida Statutes, authorize the Department to impose an administrative penalty not to exceed \$5,000 per incident for the unlicensed practice of a profession, and to recover the costs of investigation. In its Proposed Recommended Order, the Department recommends the imposition of a \$5,000.00 fine because the electrical contracting activities engaged in by Respondent, "created a potentially dangerous situation that could have resulted in the electrocution of a human or a fire at the Pike's residence." There is nothing in the record to indicate any previous complaints against Respondent. The facts arose out of a single job. Thus, an administrative penalty in the amount of \$1,000.00 is appropriate here.<sup>1/</sup>

#### RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law set forth herein, it is

RECOMMENDED:

That the Department of Business and Professional Regulation enter a final order finding that Respondent violated Section 489.531(1), Florida Statutes, that an

administrative penalty of \$1,000.00 be imposed, and that Respondent pay Petitioner's costs of investigation in the amount of \$659.48.

DONE AND ENTERED this 14th day of December, 2001, in Tallahassee, Leon County, Florida.

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BARBARA J. STAROS  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 14th day of December, 2001.

ENDNOTE

1/ Respondent asserts that he is a licensed mobile home dealer and a licensed mobile home installer and that, accordingly, he is licensed to perform the work he performed for the Pikes. However, Respondent did not produce a copy of his mobile home installer license nor cite to any statutory or rule authority supporting his assertion that the work he performed on the Pike's room addition to their mobile home is work for which he is licensed to perform under any license he may have.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.