

6-18-04

STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD

Final Order No. BPR-2005-00038 Date: 1-5-05
FILED

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

Petitioner,

By: Brandon M. Nichol

-vs-

AT

CASE NO.: 2001-06567
2002-007546
LICENSE NO.: CR C057519

DAVID J. BUCHNER

Respondent.

04-0513
JDP
CWS

FILED
2005 MAR 24 A 11:4
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board (hereinafter referred to as the "Board") pursuant to Sections 120.569 and 120.57, Florida Statutes, on September 9, 2004, in Orlando, Florida, for consideration of the Recommended Order of the Division of Administrative Hearings (attached hereto as Exhibit A), in the above styled case. Respondent was served with the Administrative Complaint and elected a formal hearing involving disputed material facts. A formal hearing was held on April 19, 2004. Administrative Law Judge J.D. Parrish submitted the Recommended Order in DOAH case Nos.: 04-0513 and 04-0514, for Board consideration. At the September 9, 2004 hearing, Petitioner was represented by Patrick F. Creehan, Esquire. Respondent was not present at the hearing. No exceptions were filed.

Upon consideration, the Board **FIINDS:**

1. The findings of fact in the Recommended Order are adopted as the Board's findings of fact.
2. The conclusions of law in the Recommended Order are accepted as the

Board's conclusions of law.

3. The respondent is in violation of Sections 489.129(1)(g)1, (m) and 489.129(1)(k), Florida Statutes.

4. The penalty in the Recommended Order are accepted is the Board's Penalty.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall pay an administrative fine in the amount of Seven Thousand Five Hundred Dollars (\$7,500). Said fine and costs shall be paid within thirty (30) days after the date of filing of the Final Order.

In addition, the Respondent is required to pay interest on the fine 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.

2. Respondent shall pay restitution in the amount of Ten Thousand Five Hundred Fourteen Dollars and Nineteen Cents (\$10,514.19)* to Douglas Garcia for case no.: 2001-06567, within thirty (30) days of the date of the filing of the Final Order.

3. Respondent shall pay restitution in the amount of Three Thousand Seven Hundred and Twenty Four Dollars (\$3,724.)* to David Danaee, for case no.: 2002-007546, within thirty (30) days of the date of the filing of the Final Order.

4. To assure payment of the fine, costs, and restitution, it is further ordered that Respondent's license to practice contracting shall be suspended with the imposition of the suspension being stayed for thirty (30) days from the date of the filing of the Final Order. If the ordered fine and restitution, are paid to the Board within that thirty (30) day period, the suspension imposed shall not take effect. Upon payment of the fine and restitution

* Any attempt by victim to collect all or part of the restitution ordered from the Recovery Fund shall require strict documentary proof of unrecovered losses up to a maximum of the restitution ordered herein or the fund maximum, whichever is less.

after the thirty (30) days, the suspension imposed shall be lifted. If the licensee does not pay the fine and restitution within said period, then immediately upon expiration of the stay, he shall surrender his license to the Department of Business and Professional Regulation.

5. In addition, Applicant shall complete a course specifically related the laws and rules of contracting, Chapter 489, and related rules, with an emphasis on the Financial Responsibilities of a contractor, within one year of the filing of this order. The course shall be in addition to the continuing education required by 61G4-18.001. Proof of the additional course must be supplied directly to Executive Director at 1940 N. Monroe Street, Tallahassee, FL 32399-1039. Failure to provide such proof direct to the Executive Director will result in a violation of this order.

6. 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.

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

DONE AND ORDERED this 29th day of December, 2004.


MICHELLE KANE, Chair
Construction Industry Licensing Board

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified Mail to: David J. Buchner, 169 Tequesta Drive, Ste. 32E, Tequesta, Florida 33469, and Barry W. Taylor, Associates, P.A., 900 East Indiantown Road, Ste.302, Jupiter, Florida 33477, and by hand delivery/United States Mail to the Construction Industry Licensing Board, 1940 N. Monroe Street, Tallahassee, Florida 32399-1039; Patrick F. Creehan, Esq., Chief Construction Attorney, Office of the General Counsel, 1940 N. Monroe St., Ste. 60, Tallahassee, Florida 32399-2202, and Diane L. Guillemette, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m., this 5th day of January, 2004.⁵

