

STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD

Final Order No. BPR-2006-06331 Date: **8-31-06**

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-

CASE NO.: 2004-049249

LICENSE NO.: CC C056383

GEORGE WALLACE MILLION,
Respondent.

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board pursuant to Sections 120.569 and 120.57(1), Florida Statutes at the duly noticed meeting on June 14-16, 2006, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order of April 20, 2006 (attached). Petitioner was represented by Patrick F. Creehan, Esquire, who was present at the hearing. The Board was represented by Diane Guillemette. The Respondent was not present.

Findings of Fact

1. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

Conclusions of Law

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

3. The conclusions of law set forth in the Recommended Order are

consistent with the findings and are approved, adopted, and incorporated herein by reference.

Penalty

4. The Administrative Law Judge's recommended penalty, is approved, adopted, and incorporated in this Final Order of the Board.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall pay an administrative fine in the amount of Six Thousand (\$6,000). 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 Fifteen Thousand Eight Hundred Dollars (\$15,800)* to Randy Whidden. Proof of restitution must be provided to the Executive Director of the Construction Industry Licensing Board at 1940 N. Monroe Street, Tallahassee, FL 32399-1039.

3. Respondent's license to practice contracting is be suspended until the fine and restitution are paid in full, and proof provided to the Executive Director of the Construction Industry Licensing Board.

4. Respondent is hereby placed on PROBATION for three (3) years.

(A) Respondent is required to appear before the Probation Committee of the Board at such times as directed by the Board Office, approximately every six (6) months. Respondent's first probationary appearance requires a full day attendance at

*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.

the Board meeting. In connection with each probation appearance, Respondent shall answer questions under oath. In addition, Respondent shall provide such other information or documentation as is requested by either the Petitioner, Department, the Board or the Probation Committee. Respondent shall forward said documentation to the Board in advance of the probation appearance.

(B) The burden shall be solely upon Respondent to remember the requirement for said appearance and to take the necessary steps in advance of said appearance to contact the Board office and ascertain the specific time, date, and place of said appearance. Respondent shall not rely on notice of said appearance from the Board or the Department.

(C) Should Respondent violate any condition of the probation, it shall be considered a violation of Section 489.129(1)(i), Florida Statutes, and shall result in further disciplinary action by the Board.

(D) Should the licensee fail to make a satisfactory appearance as determined by the Board, the term of the probationary period shall automatically be extended by six (6) months. If there occurs a second such failure then the term of probationary period will be extended an additional year. Should the Board determine a third failure of the licensee to make a satisfactory appearance, the stay of suspension of the licensee's licensure to practice contracting shall be lifted and the license shall remain in suspended status unless and until a further stay is granted by the Board.

(E) Should Respondent's license to practice contracting be suspended or otherwise placed on inactive status, the probation period shall be tolled and shall resume running at the time Respondent reactivates the license, and Respondent shall

serve the time remaining in the term of probation.

(F) To ensure successful completion of probation, Respondent's license to practice contracting shall be suspended for the period of probation, with the suspension stayed for the period of probation. The time of the suspension and the stay shall run concurrently with the period of probation. If Respondent successfully completes probation, the suspension shall terminate. If Respondent fails to comply with the requirements set forth in the Final Order imposed in this case, or fails to make satisfactory appearances as Determined by the Board, the stay shall be lifted. Once the stay is lifted, the license shall remain in suspended status unless and until a further stay is granted by the Board.

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

This Final Order shall take effect upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 25TH day of AUGUST, 2006.


JOAN M. BROWN, Chair
Construction Industry Licensing Board

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE , BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified Mail to: GEORGE WALLACE MILLION, 4125 CR 78 W, Labelle, FL 33935, Michael Kayusa, P.O. Box 6096, Fort Myers, FL 33911 and by hand/interoffice delivery 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 31st day of August, 2006.

Sarah Wachman