

Final Order No. BPR-2008-04999 Date: **6-12-08**  
FILED

Department of Business and Professional Regulation  
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nichol

**STATE OF FLORIDA  
CONSTRUCTION INDUSTRY LICENSING BOARD**

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

-vs-

CASE NO.: 2006-045951  
LICENSE NO.: RM14016958

ONEIDA GONZALEZ,  
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 January 10, 2008, in Tallahassee, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order of October 22, 2007 (attached). Petitioner was represented by Jeff Kelly, Esquire, who was present at the hearing. The Respondent was not present. The Respondent filed a motion for continuance. The Board denied Respondent's motion for continuance.

Petitioner filed Petitioner's Exception to the Recommended Order, taking exception to a portion of the RECOMMENDATION part that did not impose a fine. Petitioner cites Criminal Justice Standards and Training Commission v. Bradley, 596

So.2d 661 (Fla. 1992) for the proposition that as long as a professional regulatory agency or board provides guidelines for imposing penalties, the agency complies with Section 120.57(1)<sup>1</sup>, and the increased penalty falls within the guidelines established by its statute, the agency or board may adopt the hearing officer's findings of fact and conclusions of law, but reduce or increase the recommended penalty. Petitioner contends that Respondent's failure to take any steps following receipt of Respondent's competency card to ensure that the statements and information (Respondent's Competency Card and Respondent's signature for the attest statement contained in the registration application) were truthful and accurate before submitting them to the Department is reason for increasing the penalty in this case. The guidelines allow for a fine of up to \$5,000.00 for obtaining a license by fraud or misrepresentation and up to \$2,500.00 for misconduct.

The Board hereby adopts the findings of fact, paragraphs 1-19, and the conclusions of law, paragraphs 20-51, contained in the Recommended Order. The Board adopts the portions of the recommendation contained in the Recommended Order that Respondent's registration be revoked and that costs be paid in the amount of \$32.66. However, the Board also imposes an administrative fine of \$7,500.00. This was done on the basis that Respondent took no steps to verify that his competency card was legitimate before submitting it to the Department as contended by Petitioner. A copy of the Recommended Order is attached to and made a part hereof this Final

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<sup>1</sup>Criminal Justice Standards and Training Commission v. Bradley, 596 So. 2d 661, at 663, refers to Section 120.57(1)(b)(10), Florida Statutes, which is not substantially similar to Section 120.57(1)(l), Florida Statutes.

Order as described above.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent's license, RM14016958, is hereby **REVOKED**.

Respondent shall immediately surrender or mail all evidence of his license to the Executive Director, Construction Industry Licensing Board, Department of Business and Professional Regulation, 1940 North Monroe Street, MS#N14, Tallahassee, Florida 32399-1039.

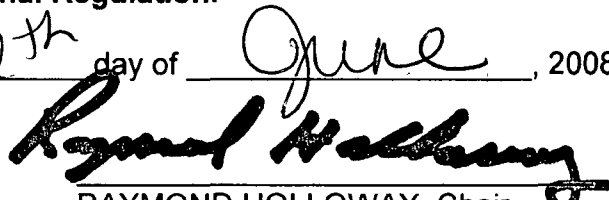
2. Respondent shall pay an administrative fine in the amount of \$7,500.00 and investigative costs in the amount of \$32.66. Said fine and costs shall be paid within thirty (30) days after the date of filing of the Final Order.

In addition, 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.

3. 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 6<sup>th</sup> day of June, 2008.

  
RAYMOND HOLLOWAY, 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: Oneida Gonzalez, 3411 SW 25 Street, Miami, FL 33133, and Yehuda D. Bruck, 200 Southeast 1<sup>st</sup> St., Suite 801, Miami, FL 33131; and by hand/interoffice delivery to the Construction Industry Licensing Board, 1940 N. Monroe Street, MS#N14, Tallahassee, Florida 32399-1039; Jeff Kelly, Esq., Chief Construction Attorney, Office of the General Counsel, 1940 N. Monroe St., Ste. 60, Tallahassee, Florida 32399-2202, and William Oglo, Assistant Attorney General, PL-01,

The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m., this 12<sup>th</sup>  
day of June, 2008:

Brandon M. Nichols