

Final Order No. BPR-2008-11039 Date: **12-24-08**
FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk
By: Brandon M. Nichol

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATIONS
CONSTRUCTION INDUSTRY LICENSING BOARD
DIVISION I & II

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATIONS,

Petitioner,

v.

Case No. 2007-047728
License No. CGC1507581
CCC1326847
QB 33129

GAETAN MALSCHALCK,

Respondent.

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board (hereinafter the "Board"), pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at the duly noticed meeting on November 13, 2008, in St. Petersburg, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order entered on August 27, 2008 (attached hereto as *Exhibit A*) in the above-style cause. At the meeting, Petitioner was represented by Jeff Kelly, Esquire; Respondent was neither present nor represented by legal counsel.

Upon consideration of the Recommended Order and being otherwise advised in the premises,

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

2. The Board has jurisdiction over this matter pursuant to the provisions of Chapters 120 and 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.

4. The recommended penalty set forth in the Recommended Order are approved, adopted and incorporated herein by reference.

Wherefore, it is hereby ORDERED and ADJUDGED that:

1. Respondent's Licenses CGC1507581 and CCC1326847 are hereby SUSPENDED, for two (2) years.

2. Respondent shall pay to the Board an administrative fine in the sum of **seven thousand, five hundred dollars and zero cents (\$7,500.00)** and investigative costs in the amount of **one hundred, eighty-two dollars and ninety cents (\$182.90)**. Said fine shall be paid within thirty (30) days after the date of filing of this 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 31st day after the issuance of this Final Order.

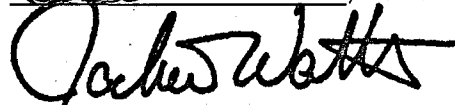
3. Respondent shall pay to Assad and Millicent Thompson restitution in the sum of **fifteen thousand, one hundred, ninety-four dollars and ninety-one cents (\$15,194.91)**, or obtain an Acknowledgment of Satisfaction from Assad and Millicent Thompson. Proof of payment, or acknowledgment of satisfaction must be provided to the Executive Director of the Construction Industry Licensing Board at 1940 North Monroe

Street, Tallahassee, Florida 32399-1039, within 30 days of the filing of this Final Order.

4. 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 Final Order.

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

DONE AND ORDERED this 23rd day of December, 2008.



JACQUELINE A. WATTS, Chair
Construction Industry Licensing Board

NOTICE OF RIGHTS OF 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 Clerk of the Department of Business and Professional Regulation and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal or the District Court of Appeal in the appellate district where the party resides. The Notice of Appeal must be filed within 30 days of rendition of this Final Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Certified Mail to **Gaetan Malschalck**, 2510 Southwest 12th Street, Boynton Beach, Florida 33426-7411; by hand or interoffice delivery to **Construction Industry Licensing Board**, 1940 North Monroe Street, MS# N14, Tallahassee, Florida 32399-1039, **Jeff Kelly, Esquire**, Chief Construction Attorney, Office of the General Counsel, 1940 North Monroe Street, Suite 60, Tallahassee, Florida 32399-2202, and **Carrol Y. Cherry**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, by hand or interoffice delivery, this 24th day of December, 2008.



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