

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	<b>9/7/2011</b>
File #	<b>2011-05961</b>

**STATE OF FLORIDA  
CONSTRUCTION INDUSTRY LICENSING BOARD**

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,  
Petitioner,

vs.

CASE NO.: 2008-061335  
LICENSE NO.: CGC 020464

BRIAN VINCENT BURNS,  
Respondent.

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**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(1), Florida Statutes, on July 14, 2011, in Kissimmee, Florida, for consideration of the Recommended Order (attached hereto as Exhibit A), in the above styled case. Petitioner was represented by Paul Waters, Esquire. Respondent was not present.

Upon consideration, the Board FINDS:

Respondent filed Exceptions to the Recommended Order. The Board declined to rule on the exceptions because they attempted to introduce new facts, and did not clearly identify the disputed portion of the recommended order by page number or paragraph, did not identify a legal basis for the exceptions, and did not include appropriate and specific citations to the record.

After reviewing the complete record accompanying the Recommended Order, the Recommended Order, and being fully advised in the premises, the Board hereby adopts

the findings of fact, conclusions of law, and the recommendation contained in the Recommended Order. A copy of the Recommended Order, attached to and made a part hereof, is hereby adopted in full and becomes the Final Order of the Board.

It is therefore **ORDERED** that:

1. Respondent shall pay an administrative fine in the amount of \$2,750.00 and investigative costs in the amount of \$157.48. 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 is hereby placed on PROBATION for 1 years, with 2 satisfactory appearances with the following conditions:

(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 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 at least 30 days in advance of the probation appearance or as otherwise directed

(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 Respondent 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, with 1 additional satisfactory appearance. If there occurs a second such failure then the term of probationary period will be extended an additional year, with 2 additional satisfactory appearances. Should the Board determine a third failure of the Respondent to make a satisfactory appearance, the stay of suspension of the Respondent's license 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 during the period of the suspension or inactivity and shall resume running at the time the suspension is stayed or Respondent reactivates the license and Respondent shall serve the time remaining on 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.

3. 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 become effective upon filing with the Clerk of the Department of Business and Professional Regulation.**

DONE AND ORDERED this 1<sup>st</sup> day of September, 2011.

  
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MARK PIETANZA, 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 U.S. Mail to: BRIAN VINCENT BURNS, 3032 E. Commercial Boulevard, Fort Lauderdale, Florida 33308; and by hand/interoffice delivery to the Construction Industry Licensing Board, P.O. Box 5257, Tallahassee, FL 32314-5257; Paul Waters, Esq., Chief Construction Attorney, Office of the General Counsel, 1940 N. Monroe St., Ste. 60, Tallahassee, Florida 32399-2202, and Daniel Biggins, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m., this 7<sup>th</sup> day of September, 2011.

Brandon M. Nichols