

STATE OF FLORIDA
ELECTRICAL CONTRACTORS' LICENSING BOARD

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/4/2012
File #	2012-02042

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

vs.

DOAH Case No.: 11-3817
DBPR Case No.: 2008-039873
License No.: EC 0001485

BOBBY SEROTA,
d/b/a ACADEMY ELECTRIC, INC.

Respondent.

FINAL ORDER

THIS MATTER came before the Electrical Contractors' Licensing Board (hereinafter "Board") at a duly-noticed public meeting on March 15, 2012, in Cocoa Beach, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (a copy is attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by LeChea Parson, Assistant General Counsel. Respondent was neither present nor represented by counsel at the hearing.

Petitioner filed Exceptions to the Recommended Order that were not timely filed. Respondent made no objection to the late filing of the Exceptions. The Board voted to consider the exceptions.

Upon review of the Recommended Order and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON PETITIONER'S EXCEPTIONS

The Board reviewed and considered Petitioner's Exceptions and ruled as follows:

1. **FIRST EXCEPTION:** The first exception was a request to aggravate the penalty and the Board voted to consider this exception when it considered the penalty recommendation of the Administrative Law Judge.

2. **SECOND EXCEPTION:** Respondent filed an exception to the conclusions of law listed in paragraph 38 of the Recommended Order. Petitioner did not object to the conclusion that no violation of Section 489.533(1)(p), Florida Statutes, was found. The Board voted to amend paragraph 38 to include a statement that a licensee who abandons a project is not excused from a violation of Section 489.533(1)(p), Florida Statutes, if the client retains a new contractor within 90 days of the abandonment.

FINDINGS OF FACT

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

2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 489, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order, as amended above, are approved and adopted and incorporated by reference herein.

PENALTY

Petitioner's first exception was to the Administrative Law Judge's recommended penalty of the imposition of a notice of non-compliance. Although a notice of non-compliance is listed as the lowest penalty for a first time violation of Section 489.533(1)(1), Florida Statutes, Section 455.227(3)(a), Florida Statutes, provides that a notice of non-compliance is used as an alternative to the disciplinary process.

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge is REJECTED and the Board voted to modify the penalty recommended by the Administrative Law Judge.

The basis for the modification of the penalty is based on the following aggravating circumstance. Respondent was found to have been practicing in a name not listed on the license. However, the facts of the case indicated that Respondent knew that he was not the qualifier for Rescue Me Electrician and knew that Rescue Me Electrician was not qualified to practice electrical contracting in the State of Florida. [Petitioner's Exhibit 1, Hearing Transcript pp. 27; 140-141].

In modifying the penalty recommendation set forth in the Recommended Order, the Board cited Respondent's knowing violation of the practice act.

The Board voted to impose a penalty of a fine in the amount of **five hundred dollars (\$500.00)**, to be paid within **thirty (30) days** of the filing of this Final Order. Respondent shall pay the fine and costs in the form of a cashier's or certified check made payable to the Executive Director of the Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399.

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

DONE AND ORDERED this 3rd day of April, 2012.

ELECTRICAL CONTRACTORS' LICENSING BOARD

Juanita Chastain
Juanita Chastain, Executive Director
for Kenneth Hoffman, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **certified U.S. Mail** to: **Bobby Serota**, d/b/a Academy Electric, Inc., 9438 Peabody Court, Boca Raton, Florida 33496 and by interoffice mail to: **LeChea Parson**, Assistant General Counsel, 1940 N. Monroe St., Suite 60, Tallahassee, Florida 32399; and **Deborah B. Loucks**, Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399-1050; 3265; and by regular US Mail to **June C. McKinney**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, on

April 4th, 2012.

Brandon M. Nichols