

**STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/29/2017
File #	2017-02531

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
CONSTRUCTION INDUSTRY LICENSING
BOARD,

Petitioner,

vs.

CASE NO.: 2014-042971
LICENSE NO.: CPC 056661
CPC 1457406
CPC 1458031

MICHAEL E. SEAMON,

DOAH CASE NO: 16-2845PL

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, at a duly-noticed public meeting on February 9, 2017, in Jacksonville, Florida, for consideration of the Honorable E. Gary Early's Recommended Order issued on October 5, 2016 (attached hereto as Exhibit "A").

APPEARANCES

For Petitioner:

Clayton T. Osteen, Esquire
Daniel S. Brackett, Esquire
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

For Respondent: Fred R. Dudley, Esquire
Dudley, Sellers, Healy & Heath, P.L.
SunTrust Financial Center, Suite 301
3522 Thomasville Road
Tallahassee, Florida 32308

Upon review of the Recommended Order, and having heard argument of the parties and after a review of the complete record in this case, the Board makes the following findings and conclusions:

EXCEPTIONS

1. Neither Respondent nor Petitioner filed Exceptions to the Recommended Order's Findings of Fact.

2. Respondent filed three (3) Exceptions to the Recommended Order's Conclusions of Law and one (1) Exception to the Recommended Penalty (attached hereto as Exhibit "B").

3. Petitioner filed a Response to Respondent's Exceptions (attached hereto as Exhibit "C").

4. Respondent's Exception 1: Respondent takes exception to Conclusion of Law #49 arguing that it is not supported by Finding of Fact #6. Respondent's Exception 1 is **DENIED**.

5. Respondent's Exception 2: Respondent takes exception to Conclusions of Law #33 and #52 arguing that Petitioner failed to prove the charges by "clear and convincing evidence" in light of Conclusion of Law #38 and Findings of Fact #17, #19, and #22. Respondent's Exception 2 is **DENIED**.

6. Respondent's Exception 3: Respondent takes exception to Conclusion of Law #36 and #37 as they relate to "harmonizing" the applicable statutes. Respondent's Exception 3 is **DENIED**.

7. Respondent's Exception 4: Respondent takes exception to imposition of the recommended penalties arguing lack of notice. Respondent's Exception 4 is **DENIED**.

FINDINGS OF FACT

8. There is competent, substantial evidence to support the Findings of Fact made in the Recommended Order.

9. Accordingly, the Findings of Fact set forth in the Recommended Order are hereby approved, adopted, and incorporated by reference as the Findings of Fact of the Board.

CONCLUSIONS OF LAW

10. The Board has personal and subject matter jurisdiction of this cause pursuant to sections 120.569; 120.57(1); and Chapters 455; 489, *Florida Statutes*.

11. The Board does not find a more reasonable interpretation of the law than that which was found by the Administrative Law Judge.

12. Accordingly, the Conclusions of Law set forth in the Recommended Order are approved, adopted and incorporated herein by reference.

WHEREFORE, based on the Findings of Facts and Conclusions of Law, the Administrative Law Judge's Recommendation is **ACCEPTED**.

WHEREFORE, it is hereby **ORDERED** and **ADJUDGED** that the following penalty is imposed against the Respondent:

13. Respondent shall pay an administrative fine in the amount of \$5,000.00. The fines shall be paid within thirty (30) days after the date of filing of the Final Order. Payments should be made payable to the "Department of Business and Professional Regulation," and sent to the Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399-1039. To ensure proper credit, the Respondent's name, case number, and reason for payment should be included.

14. In addition, Respondent shall complete seven (7) additional credit hours of live

continuing education which must be related specifically to Chapter 489 and related rules, within one (1) year. The seven (7) hours ordered shall be in addition to the continuing education required by Rule 61G4-18.001, F.A.C. Proof of the seven (7) additional hours must be supplied directly to Executive Director of the Construction Industry Licensing Board at P.O. Box 5257, Tallahassee, FL 32314-5257. Failure to provide such proof direct to the Executive Director will result in a violation of this Order.

15. 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 28th day of March 2017.



CHRISTOPHER M. COBB, Esq., 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: MICHAEL E. SEAMON, 1410 Thurso Rd., Lynn Haven, FL 32444 and Fred R. Dudley, Esq., Dudley, Sellers, Healy, & Heath, P.I., SunTrust Financial Center, Suite 301, 3522 Thomasville Rd., Tallahassee, FL 32308; and by hand/interoffice delivery to the Construction Industry Licensing Board, P.O. Box 5257, Tallahassee, FL 32314-5257; Ian Brown, Chief Construction Attorney, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-1039, and Rachel W. Clark, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, this 29th day of March, 2017.


Brandon M. Nicks