

**MINUTES OF THE MEETING OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD**

Naples, Florida, December 19, 2012

LET IT BE REMEMBERED, the Collier County Contractors' Licensing Board, in and for the County of Collier, having conducted business herein met on this date at 9:00 A.M. in REGULAR SESSION at Administrative Building "F," 3rd Floor, Collier County Government Complex Naples, Florida with the following members present:

CHAIRMAN: Richard Joslin

VICE CHAIRMAN: Patrick White

Terry Jerulle

Kyle Lantz

Thomas Lykos

Robert Meister (Excused)

Jon Walker

Michael Boyd (Excused)

Ronald Doino, Jr.

ALSO PRESENT: Michael Ossorio, Supervisor, Contractors' Licensing
Jeff Williams, Assistant County Attorney
John F. Morey, Attorney for the Contractors' Licensing Board
Ian Jackson, License Compliance Officer
Ken Kovensky, Financial and Operations Support Manager
Jamie French, Operations Director, GMD P&R

NOTE: Any person who decides to appeal a decision of this Board will need a record of the proceedings and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the Appeal is to be based.

I. ROLL CALL

Vice Chairman Joslin called the meeting to order at 9:02AM.
Roll call was taken and a quorum was established.

The Board welcomed Ronald Doino, Jr. as a new member.

II. ADDITIONS OR DELETIONS

None

III. APPROVAL OF AGENDA

Mr. Lantz moved to approve the Agenda. Second by Mr. White. Carried unanimously 6 – 0.

IV. APPROVAL OF MINUTES

DATE: October 17, 2012

Mr. White moved to approve the minutes of the October 17, 2012 meeting. Second by Mr. Lantz. Carried unanimously 6 – 0.

V. DISCUSSION

A. Election of Chair and Vice Chair

Mr. Lantz moved to nominate Richard Joslin as Chairman of the Collier County Contractors' Licensing Board. Second by Mr. White. Carried unanimously 6 – 0.

Mr. Lantz moved to nominate Patrick White as Vice Chairman of the Collier County Contractors' Licensing Board. Second by Mr. Jerulle. Carried unanimously 6 – 0.

Mr. Joslin assumed the Chair

Mr. Lykos arrived at 9:10am

The Board determined to hear item VIII. (A) first.

VIII. PUBLIC HEARINGS

A. 2012-12 W. Christian Busk, d/b/a Buck & Associates

All those testifying were sworn in.

Mr. Joslin read the rules of procedure into the record.

Mr. Busk was present.

Brian Osborn, Attorney for Mr. Busk was present.

Mr. Mitchell submitted Administrative Complaint Case Number 2012-12, License Number 11713 – W. Christian Busk – D/B/A – Busk & Associates, Inc. for consideration.

Mr. Lantz moved to enter the complaint into evidence. Second by Mr. White. Carried unanimously 7 – 0.

Mr. Lantz moved to enter the Proposed Stipulation into evidence. Second by Mr. White. Carried unanimously 7 – 0.

Stipulation Agreement

- 1. Respondent admits the allegations in the Administrative Complaint for the purpose of this Stipulated Settlement Agreement and Agreed Order.*
- 2. Respondent and Board agree that Respondent shall be placed on probation for a period of one (1) year. During his probationary period, Respondent shall have no duties to report or to undertake any other activities other than to comply with the laws and ordinances governing contractor both within the State of Florida and Collier County. In the event of any violation, investigated and validated by Collier County Contractors' Licensing Supervisor during this probationary period, there shall be an immediate suspension of Respondent's permit pulling privileges under License No. C11713 pending a full hearing before the Contractors' Licensing Board.*
- 3. Respondent shall be responsible for paying investigative and operational costs for the Case No. in the amount of \$500.00. These costs shall be paid within thirty (30) days form the date of this Stipulated Settlement Agreement and Agreed Order.*
- 4. Respondent shall also be fined \$4,000.00 for the two violations alleged in the Administrative Complaint, which have been admitted for the purpose of this Stipulated Settlement Agreement and Agreed Order and this sum shall be paid within (30)days form the date of this Stipulated Agreement and Agreed Order.*
- 5. Respondent enters into this Stipulated Settlement and Agreed Order with the understanding that the Stipulated Settlement and Agreed Order will be presented to the Board on December 19, 2012 and if rejected, Respondent shall be permitted to present his defense at the February 2013 meeting of the Board.*

Mr. Ossorio stated the County had no objection to the proposed Stipulation.

Mr. Morey, Attorney for the Board read the into the record Section 4.3.5.1 of the Ordinance which outlined the enforcement penalties available to the Board including, but not limited to probationary periods of no more than 2 years in length and a \$5,000 fine per event.

It was noted the Respondent entered into contracts for installation of driveway pavers and construction of a swimming pool. He subcontracted the work to licensed vendors, however this activity is not permitted under his license issued by the County.

Board discussion occurred on the following conditions of the proposed Stipulation:
Condition #2 - whether the language is "strong enough" to meet the purpose of ensuring the Respondent will not undertake this activity in the future.

Condition #2 - if the length of the probationary period is adequate given the nature of the violation.

Condition #4 - if the fine amount is an adequate penalty given the monetary gain the Respondent may have achieved while undertaking the activity.

Mr. Morey reported the Board could amend the stipulation during the hearing as the party's involved are present.

Mr. Busk reported the fee received for his services from the property owner exceeded \$4,000. It included additional work permitted under his license. He is in the process of obtaining his General Contractor's License which would permit him to undertake this activity in the future.

Mr. Ossorio noted if a Stipulation not agreed upon today, the case will be scheduled for a full hearing in February 2013. Staff did take into account historic cases when determining the proposed fine amount.

Mr. Jerulle voiced concern the proposed fine amount may not be adequate.

The Board and Staff discussed possible revised language for the proposed Stipulation.

Mr. White moved to approve the Stipulation subject to the following changes:

1. Condition # 2 to read "Respondent and Board agree that Respondent shall be placed on probation for a period of two (2) years. During his probationary period, Respondent shall have a duty to report all contracts entered into under this license to the County Licensing Supervisor. In the event of any violation resulting in charges being filed during this probationary period, there shall be an immediate suspension of Respondent's permit pulling privileges under License No. C11713 pending a full hearing before the Contractors Licensing Board."

Second by Mr. Lantz.

County Staff and the Respondent reported they had no objection to the proposed changes to the stipulation.

Motion carried 6 "yes" – 1 "no." Mr. Jerulle voted "no."

VI. NEW BUSINESS

A. Victor Treissa – Review of Credit Report

All persons testifying were sworn in.

Victor Treissa was present for a review of his personal credit report.

The Board expressed concern the report was in a format that was difficult to comprehend the status of the accounts listed and discussed whether it should be resubmitted in an alternate format.

Staff reported current policy dictates which Agencies may be utilized by the applicant when obtaining the report, but not the exact format required. The report was obtained from a qualified Agency (Expeditan).

Board discussion occurred noting a license may be issued for a probationary period and require a new credit report be submitted which utilizes an alternate format.

Mr. Joslin moved to approve a the application for licensure for a 6 month probationary period subject to Mr. Treissa submitting another credit report for review by County Staff within 30 days. Should Staff have any concerns after reviewing said report, a hearing will be scheduled with the Board at which time they may determine whether any changes in license status are necessary. Second by Mr. Lantz.

Mr. Lykos outlined the report which contained many deficiencies. He noted, absent of a more detailed report, the license should not be granted. A review of a credit report is required for issuance of a license due to the fact, not only must an applicant possess the necessary technical skills to conduct a proposed business, but be proficient in the financial operation of a business. Issuing a license to an applicant with credit deficiencies may provide the opportunity for misdirection of funds during the course of business (obtain deposits from clients and appropriating the funds to a personal/business emergency, thereby not having funds available to complete the scope of work in a satisfactory time and/or manner).

Others noted the license would be for a short probationary period with another review available within 30 – 60 days.

Motion carried 5 “yes” – 2 “no.” Mr. Lykos and Mr. Jerulle voted “no.”

Break: 10:40am

Reconvened: 10:55am

B. Tad Kring – Qualify Second Entity

All persons testifying were sworn in.

Mr. Kring reported he wishes to qualify www.allegrogroup.com, LLC as a second entity.

Mr. Ossorio reported the County had no objection to the application.

The Board reviewed the credit report provided with the application.

Mr. Lantz moved to approve the application to qualify a second entity. Second by Mr. White. Motion carried 6 “yes” – 1 “no.” Mr. Jerulle voted “no.”

C. Viorel Toader – Qualify Second Entity

All persons testifying were sworn in.

Mr. Lykos reported he has conducted business with the applicant in the past, however he is not a “regular vendor” for his business activities. The previous relationship would not have an affect on his ability to be impartial.

Mr. Toader wishes to qualify Affordable Flooring & Kitchens as a second entity.

Mr. Ossorio reported the County had no objection to the application and recommends approval.

It was noted only the commercial credit report is applicable to the application as the party has been in business longer than 1 year.

The Board reviewed the credit report.

Mr. White moved to approve the application to qualify a second entity. Second by Mr. Doino. Motion carried 6 “yes” – 1 “no.” Mr. Jerulle voted “no.”

VII. OLD BUSINESS

A. Orders of the Board

Mr. Lantz moved to approve the Orders of the Board. Second by Mr. Lykos. Carried unanimously 7 – 0.

B. 2011-10 James G. Schuck, MMC of Marco Island, LLC., d/b/a Marco Marine Construction Suspension Hearing

All persons testifying were sworn in.

Mr. Schuck was not present.

Ian Mitchell presented Administrative Complaint Case Number 2011-10(8), License Number 36545- James G. Schuck, DBA MMC of Marco Island LLC/Marco Marine Construction for consideration.

Mr. Schuck has been engaging in business activity absent of the proper insurance coverage.

Mr. Lantz moved to enter the complaint into evidence. Second by Mr. White. Carried unanimously 7- 0.

Mr. Mitchell stated Mr. Schuck was notified of the hearing and was aware it is occurring today.

Mr. Schuck had submitted a letter dated December 17, 2012 acknowledging the violation and not contesting the proposed suspension of his license.

Board discussion occurred on the nature of the penalty to be doled out; suspension of the license, whereby there may be a possibility the applicant may apply to re-instate the current license, or revocation of the license whereby the applicant would be required to apply for any new license to conduct business.

Jeff Wright, Assistant County Attorney stated the hearing notice identified the item to be considered a “Suspension Hearing.” Further, Mr. Schuck’s letter acknowledges his license will be “suspended.”

Other Board members noted Mr. Schuck violated a previous Stipulation Agreement (dated July 20, 2011) wherein the penalty that may be enforced for failing to comply with the Stipulation would be “revocation” of the license, thereby possibly granting the Board the authority to revoke the license today

It was noted the Board’s intent would be to “revoke” the license.

Board discussion occurred on the legal ramifications of each possible enforcement action available (suspension vs. revocation) including how to ensure the applicant’s “due process” has not been violated.

Mr. White moved to suspend license number 36545 indefinitely and order the Respondent to pay Administrative Costs in the amount of \$500.00. Said costs to be paid within 30 days. Second by Mr. Jerulle. Carried unanimously 7 – 0.

IX. PUBLIC COMMENTS

Toni Jessen

Ms. Jessen expressed concern a fine was not imposed in the case involving Mr. Schuck..

The Board reported the case was for violating a stipulation whereas the penalty considered was altering the status of the license.

X. NEXT MEETING DATE - Wednesday January 16, 2012

Board of County Commissioners, 3rd Floor - Administrative Building “F”, Government Complex, 3301, E. T 3rd Floor, 3301 E. Tamiami Trail, Naples FL, 34112

There being no further business for the good of the County, the meeting was adjourned by the order of the Chair at 11:45 AM.

COLLIER COUNTY CONTRACTORS’ LICENSING BOARD

Richard Joslin, Chairman

These Minutes were approved by the Board/Chairman on _____,
as presented _____, or as amended _____.