



DEPT. OF COMMERCE
2009 SEP 28 10:15 AM

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DEPARTMENT OF COMMERCE

CONTRACTORS LICENSE BOARD
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the	)	CLB-2007-580-L
Contractor's License of)	
	)	BOARD'S FINAL
GERRELL BRADSHAW,	)	ORDER
)	
Respondent.)	
_____)	

BOARD'S FINAL ORDER


On June 23, 2009, the duly appointed Hearings Officer submitted his Findings of Fact, Conclusions of Law and Recommended Order Granting Petitioner's Motion for Summary Judgment in the above-captioned matter to the Contractors License Board ("Board"). Copies of the Hearings Officer's recommended decision were also transmitted to the parties. The parties were subsequently provided an opportunity to file exceptions; however no exceptions were filed.


Upon review of the entire record of these proceedings, the Board adopts the Hearings Officer's recommended decision as the Board's Final Order. Accordingly, the Board finds and concludes that (1) there are no genuine issues of material fact, that Petitioner Regulated Industries Complaints Office is entitled, as a matter of law, to an order concluding that Respondent Gerrell Bradshaw ("Respondent") violated Hawaii Revised Statutes §§444-9 and 444-17(12), together with Hawaii Administrative Rules §§16-77-4(a) and 16-77-71(c).


For the violations found, Respondent's contractor's license is hereby revoked and Respondent shall immediately submit all indicia of licensure as a contractor in the State

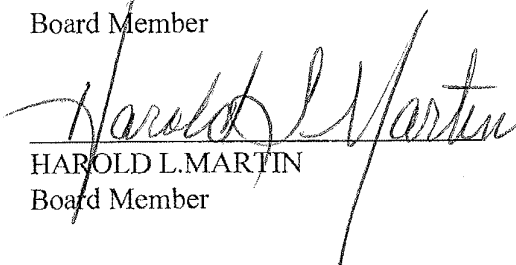
of Hawaii to the Executive Officer of the Board. The Board further orders that Respondent pay a fine in the sum of \$500.00 and restitution to Roy Enomoto in the total sum of \$2,000.00, within sixty (60) days of the Board's Final Order. Payment of the fine shall be by certified check or money order made payable to the "State of Hawaii, Compliance Resolution Fund." Payment of the restitution shall be made payable to the complainant. All payments shall be sent to: Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs, 235 South Beretania Street, 9th Floor, Honolulu, Hawaii 96813. The payment of the fine and the restitution shall be a part of the conditions for relicensure should Respondent reapply for a contractor's license after the revocation period.

DATED: Honolulu, Hawaii: SEP 25 2009

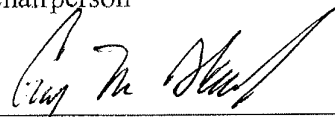

NEAL ARITA
Vice Chairperson

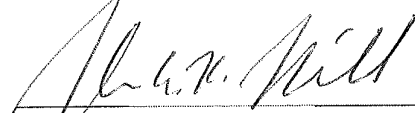

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HAROLD L. MARTIN
Board Member

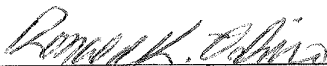

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Board Member



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Board Member


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Board Member

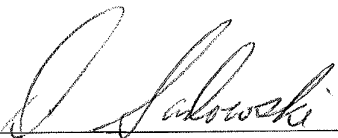

ALDON K. MOCHIDA
Board Member



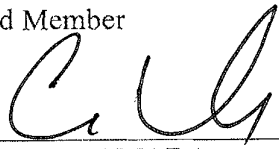
RONALD K. OSHIRO
Board Member



DARYL SUEHIRO
Board Member



DENNY R. SADOWSKI
Board Member



GERALD YAMADA
Board Member



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2009 JUN 23 A 10:02

HEARINGS OFFICE

CONTRACTORS LICENSE BOARD
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the	)	CLB-2007-580-L
Contractor's License of)	
	)	HEARINGS OFFICER'S
GERRELL BRADSHAW,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	AND RECOMMENDED
	)	ORDER GRANTING
	)	PETITIONER'S MOTION
	)	FOR SUMMARY JUDGMENT
)	

HEARINGS OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDED
ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

On January 14, 2009, the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office ("Petitioner"), filed a petition for disciplinary action against the contractor's license of Gerrell Bradshaw ("Respondent"). The matter was duly set for hearing, and the notice of hearing and pre-hearing conference was transmitted to the parties.

On April 30, 2009, Petitioner filed the instant motion for summary judgment. On May 20, 2009, said motion came before the Hearings Officer for hearing; Tammy Y. Kaneshiro, Esq. appearing for Petitioner. Respondent was present and appeared *pro se*.

Having reviewed and considered the evidence and argument presented at the hearing, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order granting Petitioner's motion for summary judgment.

II. FINDINGS OF FACT

1. Respondent was originally issued a C33 specialty contractor's license, License No. CT 22849, by the Contractors License Board ("Board"), on December 1, 2000. Respondent's contractor's license is currently set to expire on September 30, 2010.

2. Respondent is, and at all relevant time was, the Responsible Managing Employee ("RME") of Asset Realty Corporation ("Asset"). Asset does business as ARC Painting.

3. Asset is the holder of a C33 specialty contractor's license, License No. CT 22848. Asset's license was originally issued by the Board on December 1, 2000 and is currently set to expire on September 30, 2010.

4. Respondent has not been the RME for any other contracting entity and has not been licensed to practice as a sole proprietor.

5. On January 16, 2007, Respondent entered into a contract with Roy Enomoto ("Enomoto") calling for Respondent to perform painting contracting work at Enomoto's residence.

6. The work included treating and removing all mildew, power washing all areas to be painted, treating all rusted areas with rust converter and priming prior to painting, removing all peeling paint, spot priming of all bare wood prior to full coat primer, patching all minor holes, caulking all joints in T & G siding, window and door trim and belly bands, applying one full coat of primer and two coats of paint, painting exterior to consist of trim, eaves, fascia doors, gutters, window and window trim and all previously painted areas of the house and garage and removing and replacing all old screen material and molding for \$3,800.00, including labor and materials.

7. Pursuant to the contract, Enomoto paid Respondent a deposit of \$2,000.00 for the contracting work.

8. At the time Respondent entered into the contract with Enomoto, Respondent was the RME of Asset.

9. Respondent did not enter into the contract on behalf of Asset.

10. Enomoto contacted Respondent several times by telephone inquiring as to when Respondent would begin work on the home. Initially, Respondent responded that the paint had not come in. Later, Respondent stopped responding to Enomoto's calls.

11. Despite Enomoto's repeated requests and Respondent's earlier assurances, Respondent did not begin the work at Enomoto's home or refund any of Enomoto's deposit.

12. Respondent subsequently agreed to refund Enomoto the \$2,000.00 deposit.

However, Respondent has never returned any portion of the deposit to Enomoto.

III. CONCLUSIONS OF LAW

Petitioner has charged Respondent with violating the following provisions of the Hawaii Revised Statutes (“HRS”) and Hawaii Administrative Rules (“HAR”):

§444-9 Licenses required. No person within the purview of this chapter shall act, or assume to act, or advertise, as general engineering contractor, general building contractor, or specialty contractor without a license previously obtained under and in compliance with this chapter and the rules and regulations of the contractors license board.

* * * *

§444-17 Revocation, suspension, and renewal of licenses. In addition to any other actions authorized by law, the board may revoke any license issued pursuant to this section, or suspend the right of a licensee to use a license, or refuse to renew a license for any cause authorized by law, including but not limited to the following:

* * * *

(12) Wilful failure in any material respect to comply with this chapter or the rules adopted pursuant thereto;

§16-77-4 Licenses required.(a) No person within the purview of this chapter shall act, or assume to act, or advertise, as a contractor, general engineering contractor, general building contractor, or specialty contractor without a license previously obtained under and in compliance with this chapter and chapter 444, HRS.

* * * *

§16-77-71 Principal and subordinate RMEs.

* * * *

(c) An RME shall not be considered a contracting entity and shall be considered to be engaging in unlicensed activity if the RME enters into a contract other than for the contracting entity by whom the RME is employed.

The uncontroverted evidence was sufficient to establish Respondent's violation of HRS §§444-9 and 444-17(12), together with HAR §§16-77-4(a) and 16-77-71(c).

IV. RECOMMENDED ORDER

Based on the foregoing findings and conclusions, the Hearings Officer recommends that the Board find and conclude that (1) there are no genuine issues of material fact, that Petitioner is entitled, as a matter of law, to an order concluding that Respondent violated HRS §§444-9 and 444-17(12), together with HAR §§16-77-4(a) and 16-77-71(c).

For the violations found, the Hearings Officer recommends that Respondent's contractor's license be revoked and that Respondent be required to immediately submit all indicia of licensure as a contractor in the State of Hawaii to the Executive Officer of the Board. The Hearings Officer also recommends that Respondent be ordered to pay a fine in the sum of \$500.00 and restitution to Roy Enomoto in the total sum of \$2,000.00, within sixty (60) days of the Board's Final Order. Payment of the fine shall be by certified check or money order made payable to the "State of Hawaii, Compliance Resolution Fund." Payment of the restitution shall be made payable to the complainant. All payments shall be sent to: Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs, 235 South Beretania Street, 9th Floor, Honolulu, Hawaii 96813. The Hearings Officer also recommends that payment of the fine and the restitution be made a part of the conditions for relicensure should Respondent reapply for a contractor's license after the revocation period.

JUN 23 2009

DATED at Honolulu, Hawaii: _____.



CRAIG H. UYEHARA
Administrative Hearings Officer
Department of Commerce
and Consumer Affairs

Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order Granting Petitioner's Motion for Summary Judgment; In Re Gerrell Bradshaw.