

**MINUTES OF THE REGULAR MEETING OF
THE CHARLOTTE COUNTY
CONSTRUCTION INDUSTRY LICENSING BOARD
18500 Murdock Circle, Room 119
Port Charlotte, Florida 33948**

May 2, 2013

- I. CALL TO ORDER by Carleton Strong at 6:00 PM.**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**

Members Present:

**William Ambrose
Thomas Burns
John Damon
Michael Douglass
Stephen Gardiner
John Herston
Erik Howard
Carleton Strong
Glenn Siegel, Board Attorney**

Members Excused: None Member Absent: Randy Fassett

Staff Present:

**Erin Mullen-Travis, Certified Code Compliance Officer, Licensing Manager
Lorraine Lundblad, Certified Code Compliance Officer, Licensing Investigator
Ira Bender, Certified Code Compliance Officer, Licensing Investigator
Jim Evetts, Building Official
Joshua Moye, Assistant County Attorney
David White, Clerk**

Staff Excused:

Aaron Schulze, Certified Code Compliance Officer, Licensing Investigator

- IV. AGENDA CHANGES – Erin Mullen-Travis, Certified Code Compliance Officer, Licensing Manager informed the board of the following changes:**
 - XIII. Reinstatement, A. Mary Jane Fiedler – cancelled by Petitioner**
- V. NEXT MEETING DATE: June 6, 2013, at 6:00 p.m.**
- VI. SWEARING IN OF ALL THOSE GIVING TESTIMONY**
- VII. QUASI-JUDICIAL HEARING – *John Damon* declared that he had a conflict of interest with Service Star Enterprises, Inc. The chairman asked board Attorney Glenn Siegel for his opinion. Mr. Siegel asked Mr. Damon what the circumstances were and if he could be impartial to which Mr. Damon replied that he had seen some work Service Star had done in another county and that he could not be impartial. Mr. Siegel recommended recusal.**

VIII. APPROVAL OF MINUTES: April 4, 2013

MOTION: *Thomas Burns* motioned to approve the minutes. *Michael Douglass* seconded and the minutes were approved unanimously.

IX. CONSENT – AFFIDAVITS OF NONCOMPLIANCE FINES:

All matters listed under this item are considered to be routine and action will be accomplished by one motion without separate discussion of each item. If discussion is desired by a member of the Board, that item(s) will be removed from the Consent Agenda and considered separately. **Each case has been assessed with an additional \$10.00 for the cost of recording the lien.**

A. Leonardo Carrizales - Citation # 3378; 510.00	Lorraine Lundblad
B. Wimar Alexander Castaneda- Citation # 3520; 510.00	Ira Bender
C. Jorge Meza Cruz – Citation # 3516; 510.00	Ira Bender
D. Jonatan Gonzalez – Citation 3521: 510.00	Ira Bender
E. Rigoberto Navarro-Ramos – Citation 3517; 510.00	Ira Bender
F. John Partridge - Citation # 3378; 510.00	Lorraine Lundblad
G. Carlos Galvan Vargas-Citation #3377; 510.00	Lorraine Lundblad

MOTION: *Erik Howard* motioned to approve the Consent-Affidavits of Non-Compliance Fines. *Stephen Gardiner* seconded and the motion was approved unanimously.

X. CONTESTING CITATION: None

XI. OLD BUSINESS: None

XII. LICENSE REVIEW: None

XIII. REINSTATEMENT: None

XIV. DISCIPLINE CASES:

A. Ray W. Crouch
d/b/a SWFL Hurrigan Shutters, Inc.
State Certified General Contractor
License No. CGC062975
Case No. CIL-13-00305A

Ira Bender

CHARGE 1: Florida Statute 489.129 (1)(j) – Disciplinary Proceedings -Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project may be presumed abandoned **after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days. (6 Counts)**

CHARGE 2: Florida Statutes Chapter 489.129 (1)(m) – Committing incompetency or misconduct in the practice of contracting. (6 Counts)

CHARGE 3: Violation of Charlotte County Code 3-2-47 (b)(4) – Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, Chapter 3-2, Chapter 3-9, any provisions of any code adopted pursuant to this chapter or any state law regulating the construction industry, including Chapter 489 and Part I of Chapter 455. (6 Counts)

CHARGE 4: Charlotte County Code 3-2-47 (b)(20) – Failing to obtain inspections including but not limited to final inspections. **(6 counts)**

Ira Bender Certified Code Compliance Officer, Licensing Investigator, provided testimony as stated in the investigative report. **Mr. Crouch** was not present to give testimony to the board.

MOTION: Erik Howard made the motion that **Ray W. Crouch's** permitting privileges and the right to work as a contractor in Charlotte County be REVOKED. It is further ordered that this case along with a copy of the Board's Order be prepared and sent to the Florida Construction Industry Licensing Board with a recommendation that **Ray W. Crouch** be ordered by the FCILB to renew the expired permits and obtain final inspections. In addition, it is recommended that **Ray W. Crouch's** State Contractor's license be suspended or revoked. **Thomas Burns** seconded the motion and it was approved unanimously.

A. **Ryan Herman**
d/b/a Service Star Enterprise, Inc.
State Certified Air Conditioning Contractor
License No. CAC1816260
Case No. CIL-12-00576

Erin Mullen-Travis

CHARGE 1: Florida Statute 489.129 (1)(o) Proceeding on any job without obtaining applicable local building department permits and inspections. **(7 Counts)**

CHARGE 2: Florida Statutes Chapter 489.129 (1)(m) – Committing incompetency or misconduct in the practice of contracting. **(7 Counts)**

CHARGE 3: Violation of Charlotte County Code 3-2-47 (b)(1) – Any violation of Florida Statute section 489.129 or section 489.533, whether by a certified, registered or local contractor.. **(7 Counts)**

CHARGE 4: Violation of Charlotte County Code 3-2-47 (b)(4) – Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, Chapter 3-2, Chapter 3-9, any provisions of any code adopted pursuant to this chapter or any state law regulating the construction industry, including Chapter 489 and Part I of Chapter 455. **(7 Counts)**

Erin Mullen-Travis Certified Code Compliance Officer, Licensing Manager, stated to the chairman that for the record, Mr. Herman was represented by his attorney **Scott Hertz** who was present. **Ryan Herman** was also present to give testimony to the board. Chairman Strong asked Mr. Hertz if he was sworn in, to which he replied that he was Mr. Herman's attorney, not giving testimony and therefore not required to be sworn. He also stated that he wanted to make an objection for the record. Mr. Hertz stated that Mr. Herman is charged with the charging document four charges and seven counts. He stated that he noticed in the opening statement that the board was told not to consider evidence that is not relevant and within the purview of the board. He said that much of the report that has been put before the board does not relate to those charges. The charges are for doing work without a permit. Much of the report is extraneous information about other issues that are not before the board this evening. So Mr. Hertz stated that he wanted to lodge an objection to that information being presented as being irrelevant to the charges that we are here upon tonight, It is not directly related to having done work without a permit and He did not believe that it belongs being presented in a hearing on that issue.

Erin Mullen-Travis Certified Code Compliance Officer, Licensing Manager, provided testimony as stated in the investigative report.

Scott Hertz Attorney for the respondent provided an opening statement. He then provided a letter from an officer of Service Star Enterprises, Inc. addressed to the chairman, to be distributed to the board and entered into the record. **Ryan Herman** provided testimony to the board. **Scott Hertz** requested that **Salvatore Tivolacci**, former owner of Service Star Cooling & Heating and presently Relations Director provide testimony. **Mr. Tivolacci** provided a clarification to the letter provided to the board as to the signatory **Darielle Tivolacci** who is the Financial Director of Service Star. **Scott Hertz** Attorney for the respondent provided a closing statement.

MOTION: Erik Howard made the motion that we find **Ryan Herman** d/b/a Service Star Enterprises, Inc. in violation of the cited codes and that it is the boards order that the new permitting privilege be revoked with the exception of permits not finalized by Contractor **Mr. Elwell** d/b/a Service Star Heating & Cooling and that this board order **Mr. Herman** to obtain **Mr. Herman's** permits that are currently under review and obtain final inspections on all permits issued under his license. It is also ordered that a case along with a copy of this Board's order be sent to the Department of Business and Professional Regulation with the recommendation that the state licensing board order **Ryan Herman** to cease performing work without the required permits being issued as required by the Florida Statutes and Florida Building Code, obtain the current permits that are currently under review, obtain final inspections on permits that he has obtained in Charlotte County and that the state, discipline the license of **Ryan Herman** by probation for two years. It is also ordered that **Mr. Herman's** license be on probation for two years in Charlotte County.

And if **Ryan Herman** fails to comply with the requirements of this board's order it is recommended that the board send a copy of the boards order along with a follow-up report to the state board with a recommendation that the state certified air conditioning contractor's license of **Ryan Herman** be REVOKED. **Michael Douglass** seconded the motion and it was approved by a vote of six to two with John Herston and Thomas Burns voting against and John Damon abstaining because of previous knowledge.

XV. CITIZEN INPUT – Bubba and Katherine Howard stated that because today is the National Day of Prayer we are going to recited John 3:16 "For God so loved the world, that he gave his one and only Son, so that that whosoever believes in him shall not perish, but have eternal life."

Loren Armstrong stated that we had work done on the 6th of December of 2012, at that time they said that they had to replace the circuit breaker, there was a cross bar supposed to be put on, and they didn't have any filters with them at the time that were the right size. I ended up going to Home Depot to get them. They told me that they would be back in a couple of days, that was five month ago, never heard from them. Mr. Ambrose ask who are you talking about, Service Star? Mr Armstrong replied yes, they put the whole unit, ducting, all new unit everything, but they never came back to finish the job. John Herston asked: did you ever see an electrical contractor show up to even look at the breaker? Mr. Armstrong said nobody ever showed up until the inspector showed up and he wanted the book, the permit and they never left any of that with us.

Karen Kruger stated that she had a four page report that she has given to Erin Mullen-Travis that she wouldn't have time to discuss, but basically the tried to convince me that I needed to replace my five year units; I have two of them. I couldn't afford to do that, so **Cedrick** who said to call him **Gary** said "well it will cost a lot of money, but I can keep them going for twelve to fifteen years. I feel that I was pressured and frightened to have things done that were not needed. Things that were needed were not done. I was grossly overcharged and I feel that I was a victim of a scam. I am a senior on Social Security; I feel that I was taken advantage of. I could have almost purchased a new air conditioner for what I paid. I was forced to take out a five year warranty, a maintenance warranty before they would do the work for me. I sent a certified letter to Mr.

Tavolacci. I want to cancel that five year agreement and I asked that he refund the 93% that I didn't use of \$1100.00. They didn't finish the work that needed to be done and I had to have another contractor come and that was another \$700.00 over the \$4700.00 that I had already paid them. Comments were made by John Herston and Carleton Strong thanked the Ms. Kruger for coming up to the podium.

XVI. REPORT FROM THE LICENSING DIVISION MANAGER- Erin Mullen-Travis – None

XVII. REPORT FROM THE BUILDING OFFICIAL- James Evetts – discussed permitting privileges on line. He stated that because of the new changes to the code there are 35-40% of Air Conditioning Contractors that cannot get the process correct and are tying up the staff trying to fix their errors. He said he was considering stopping the on line permits for air conditioners. A long discussion ensued about restricting rights verses bringing a contractor to the board. **Joshua Moye, Assistant County Attorney** presented his view from the legal standpoint. He stated that he was going to look into this more in depth to try to find a solution and report to the board next month.

XVIII. REPORT FROM THE ASSISTANT COUNTY ATTORNEY- None

XIX. BOARD ATTORNEY COMMENTS- None

XX. REPORT FROM CONSTRUCTION INDUSTRY LICENSING BOARD MEMBERS- Erik Howard addressed the board stating that today is the National Day of Prayer and the United States is the greatest country we live in, what a great opportunity that we get up here able to serve our country, serve our county, what a great place America is and it is because of these founding principles and Christianity in this great nation. As it relates to this board, Jesus speaking to his disciples according to the gospel of Matthew said "therefore, everybody who hears these words of mine and puts them into practice is like a wise man who built his house on the rock, the rain came down, the streams rose, the winds blew and beat against that house, yet it did not fall because it had its foundation on the rock" and they hired a Licensed Contractor.

XXI. ADJOURNMENT

Any person who decides to appeal a decision of this Board will need a record of the proceedings pertaining thereto, and therefore may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based

MOTION: Carl Strong made the motion to adjourn. **Thomas Burns** seconded the motion and it was approved unanimously. The meeting was adjourned at 8:19 PM.

Charlotte County
Construction Industry Licensing Board
Minutes of May 2, 2013

Read and approved by:

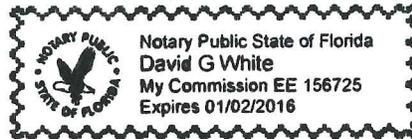

Carleton Strong, Chairman

Date: July 11, 2013

STATE OF FLORIDA
COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 11th day of July, 2013 who is personally known to me and who did not take an oath.


Signature of Notary



I hereby attest and affirm that the minutes of the May 2, 2013 Construction Industry Licensing Board meeting are true and accurate to the best of my ability. Complete files of all cases as well as taped recordings of all proceedings of this hearing are kept in the Building Construction Services and Contractor Licensing Division and are available to the public. Copies of the tapes are available upon request for a minimal fee.


David White, Administrative Assistant II/Clerk
Construction Industry Licensing Board
Community Development Department
Contractor Licensing Division