

MEMORANDUM

To: Utah Residence Lien Recovery Fund Advisory Board
From: Lien Recovery Fund Staff
Date: August 6, 2014
Subject: Information Packet for Upcoming Board Meeting

Enclosed please find the application reports and other documents for the upcoming Board meeting. That meeting is scheduled to begin at **8:15 am** on **Wednesday, August 13, 2014** in the **North Conference Room**, on the first floor of the Heber M. Wells Building - **160 East 300 South, Salt Lake City, Utah**. We anticipate the meeting will last until 9:30 a.m.

We appreciate your service on the Board - see you at the meeting.

Agenda

Utah Residence Lien Recovery Fund Advisory Board

August 13, 2014 8:15 am
North Conference Room, First Floor
Heber M. Wells Building
160 E. 300 S. Salt Lake City, Utah

This agenda is subject to change up to 24 hours prior to the meeting.

ADMINISTRATIVE BUSINESS

1. Review and approve minutes from previous board meeting
2. Travel reimbursement
3. Swear in new Board member DeAnna Leahy

HOMEOWNER APPLICATIONS APPROVED PRIOR TO BOARD MEETING

- a) Carlie Van Alfen v Deep Blue Pools & Spas Inc
- b) Jason Moffat v Peachtree Construction

HOMEOWNER AFFIDAVIT OF COMPLIANCE APPROVED PRIOR TO BOARD MEETING

- a) Sherree Greenhalgh v Mitchell Hardwood Flooring

HOMEOWNER APPLICATIONS FOR REVIEW

1. Recommended for Dismissal and Explanation Required
 - a) RMDBRO001 A Richard Brown v RMD Construction Ltd LLC - Dane
 - b) WEASHI001 Zhan Shimanovich v Weatherguard Roofing LLC - Dane
2. Recommended for Denial and Explanation Required
 - a) LEWCHR001 McKay Christensen v Lewis Development Corporation - Dane

CLAIMS FOR REVIEW

1. Recommended for Denial and Explanation Required
 - a) LRF-2014-0505-01 Burton Lumber & Hardware Co v Irontown Housing Company Inc (Wilson, Steele) - Dane

2. Recommended for Approval and No Explanation Required

- a) LRF-2014-0626-01 Stock Building Supply West Inc v Picasso Custom Homes LLC (Quist) - Dane
- b) LRF-2014-0701-01 Stock Building Supply West Inc v Picasso Custom Homes LLC (Sheid) - Dane

NEXT SCHEDULED MEETING:

September 10, 2014

Note: In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675

MINUTES

**UTAH
RESIDENCE LIEN RECOVERY FUND
ADVISORY BOARD
MEETING**

**July 9, 2014
North Conference Room– 8:15 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:20

ADJOURNED : 8:43

Board Members Present:

Bradley Stevens, Chair
Patty Fullmer, Vice Chair
Douglas Darrington
Jeff Park
Calvin Bowen

Board Members absent:

Dave McArthur

DOPL Staff Present:

Program Manager, Dane Ishihara
Fund Secretary, Tracy Naff

Guests:

Chris Schmutz, counsel for CCAM Enterprises LLC

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Review and approve minutes from the June 11, Board meeting.

Mr Bowen made a motion to approve the June 11, 2014 Board minutes. Mr Park seconded the motion. Motion passed by unanimous vote.

Elect Board Chair and Vice Chair

Mrs Fullmer nominated Bradley Stevens as Board Chair. Mr Bowen seconded the nomination. Nomination passed by unanimous vote. Mr Darrington nominated Calvin Bowen as Vice Chair. Mrs Fullmer seconded the nomination. Nomination passed by unanimous vote.

Homeowner applications for Review

1. Recommended for Approval & Explanation Required

a) CLHWIL001 Janel Shamo Wilson v CLH Inc - Mr Ishihara gave a brief explanation of the application. Mr Bowen made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote.

Claims for Review

1. Recommended for Approval & Explanation Required
 - a) LRF-2008-0911-02 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Perkins) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
 - b) LRF-2008-0911-03 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Baum) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
 - c) LRF-2008-0911-04 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Barnes) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
 - d) LRF-2008-0911-06 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Andrews) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
 - e) LRF-2008-0911-09 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Weir) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
 - f) LRF-2008-0911-10 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Wilson) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.

- g) LRF-2008-0911-11 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Wood) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.
- h) LRF-2008-0911-12 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (Williams) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes
- i) LRF-2008-0911-13 CCAM Enterprises LLC v Rockin R Enterprises LP dba Red Rock Cabinets (McDonald) - Mr Ishihara gave a brief history of the application. Mr Darrington made a motion to approve the application. Mr Bowen seconded the motion. Motion passed by unanimous vote. Open discussion regarding assignable claims and Legislative changes.

2. Recommended for Approval and Explanation Required

- a) LRF-2012-1019-04 Allred's Inc v Jake's Heating & Air Conditioning Inc (Baldwin) - Mr Ishihara gave a brief explanation of the application. Mr Darrington made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote
- b) LRF-2012-1019-05 Allred's Inc v Jake's Heating & Air Conditioning Inc (Habitat for Humanity) - Mr Ishihara gave a brief explanation of the application. Mr Darrington made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote.
- c) LRF-2012-1019-06 Allred's Inc v Jake's Heating & Air Conditioning Inc (Hall) - Mr Ishihara gave a brief explanation of the application. Mr Darrington made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote.
- d) LRF-2012-1019-07 Allred's Inc v Jake's Heating & Air Conditioning Inc (Schumann) - Mr Ishihara gave a brief explanation of the application. Mr Darrington made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote.

- e) LRF-2012-1019-09 Allred's Inc v Jake's Heating & Air Conditioning Inc (Anderson) - Mr Ishihara gave a brief explanation of the application. Mr Darrington made a motion to approve the application. Mrs Fullmer seconded the motion. Motion passed by unanimous vote.

ADJOURN:

Meeting adjourned: 8:43

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

Date Approved

(ss) Brad Stevens
Chairperson, Residence Lien Recovery Fund Advisory Board

Date Approved

(ss) Dane Ishihara
Program Coordinator, Division of Occupational & Professional Licensing

Applications for Certificate of Compliance Disposition Report

August 6, 2014

Processing Status	Active Pending Action By	Disposition	Number of Apps	
Active	Board		3	0.2%
Active	Homeowner		1	0.1%
Active	LRF		52	2.8%
Closed		Approved	1156	62.3%
Closed		Denied	556	30.0%
Closed		Withdrawn	78	4.2%
Prolonged			9	0.5%
Total Applications Filed			1,855	

Claim Disposition Report

August 6, 2014

Processing Status	Active Pending Action By	Disposition	Number of Claims	
Active	Board		3	0.1%
Active	LRF		14	0.5%
Closed		Denied	553	19.6%
Closed		Dismissed	243	8.6%
Closed		Paid	2,004	70.9%
Prolonged			8	0.3%
Total Claims Filed			2,825	

Summary of Payments

Sorted by Claimant Type

August 6, 2014

Claimant Type	Number of Paid Claims	Total Payments	
Contractor	846	4,897,923.51	38.9%
Laborer	10	17,070.17	0.1%
Other	1	3,001.75	0.0%
Supplier	1147	7,671,679.03	60.9%
Total Paymen	2004	\$12,589,674.46	100.0%

Summary of Payments

Sorted by Nonpaying Party Type

August 6, 2014

Nonpaying Party Type	Number of Paid Claims	Total Payments	
Home Builder	1224	7,891,282.28	62.7%
Other	25	179,357.47	1.4%
Real Estate Developer	72	462,183.51	3.7%
Specialty Contractor	683	4,056,851.20	32.2%
Total Payments	2004	\$12,589,674.46	100.0%

CERTIFICATE OF COMPLIANCE

RECOMMENDED FOR DISMISSAL

-EXPLANATION REQUIRED-

Application Report

Property ID: RMDBRO001

Application Examined by: Dane

Homeowner Application

July 21, 2014

Homeowner: A Richard Brown

Homeowner's Attorney: Ron Barker

Original Contractor: RMD Construction Ltd LLC

License Number: 6300315

License Issue Date: 8/18/2006

Type: Licensed Contractor

License End Date: 11/29/2010 (Revoked)

Abstract and Recommendation

Division's Recommendation: Dismiss

- On April 26, 2009 the division issued an order staying the application until the parties case in District Court was resolved (Exhibit A).
- On August 20, 2013 a stipulation for dismissal with prejudice was filed (Exhibit B).
- On September 4, 2013 an Order for dismissal with prejudice was granted (Exhibit C).

Based on the parties stipulating to dismiss all claims between them, the division recommends that this application be dismissed and that no further action be taken by the division.

Exhibit A

Dane Ishihara
Residence Lien Recovery Fund Manager
160 East 300 South, 1st Floor Lobby
Salt Lake City, UT 84114-6741

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE
STATE OF UTAH

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF **A. RICHARD
BROWN** (“HOMEOWNER”) FOR THE
RESIDENCE DESCRIBED AS **LOT 32
SOLDIER CREEK ESTATES PALT B
AMENDED, WASATCH COUNTY**

ORDER

In regard to the application for Certificate of Compliance for the above-referenced residence, A. Richard Brown (“Homeowner”) and RMD Construction LTD LLC (“Original Contractor”) have submitted evidence and statements relating to their dispute over whether the statutory requirements for lien protection afforded by the Residence Lien Restriction and Lien Recovery Fund Act have been satisfied.

APPLICATION HISTORY

The Homeowner submitted an application for a Certificate of Compliance on September 13, 2010. The Homeowner argues that evidence in the application file demonstrates they paid the Original Contractor in full for the value of work he completed before being released from the project. However, the Original Contractor alleges that the Homeowner failed to pay him in full. Although both parties have submitted statements and documentation, a preponderance of the evidence received by the Division thus far fails to adequately support either position. Upon review of lengthy documentation and written response prepared by all parties, the Division concludes the following:

**PARTIES' ABILITY TO PREPARE FOR HEARING AND PRESENTATION OF CASE
HAMPERED BY INABILITY TO CONDUCT DISCOVERY**

Per Utah Code Ann. § 38-11-110, a Certificate of Compliance is adjudicated in an informal proceeding. Informal proceedings do not permit interrogations, requests for production of documents, admissions, and depositions to help explain the multitude of documents submitted by participating parties. Considering the numerous documents submitted, it is likely that additional factual information would be discovered if parties had the opportunity for discovery. Therefore, the Division concludes that fairness would be better served if each party were permitted to protect their interests in district court where discovery is available.

JUDICIAL ECONOMY

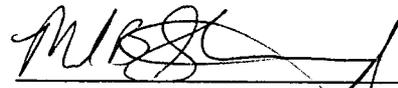
Should the Division continue to process this application, there is a substantial possibility that by the time it is resolved in District Court, the matter will have been considered before three separate adjudicative bodies and two separate branches of government. First, the case would be subject to an initial informal adjudication by the Residence Lien Recovery Fund Advisory Board and the Division Director. The Original Contractor has a compelling interest in preventing his loss of license. The Homeowner has a compelling interest in protecting himself from multiple mechanics' liens. Each party has retained legal counsel to argue in favor of their respective positions. Regardless of the Board's decision, the case will likely come before the Department on agency review. After agency review, the case will likely be heard de novo in District Court for another adjudication. At that point, the issue will have been considered before three separate adjudicative bodies and two separate branches of government. The Division maintains that such a lengthy and costly method of adjudicating an issue is ineffective use of government and private resources. Alternatively, the parties are able to continue litigating the issue in District Court where a schedule for upcoming depositions, interrogatories, and discovery has already been set. By continuing to proceed in District Court, judicial economy will be served and all participating

parties will avoid costs associated with litigation before multiple adjudicative bodies.

CONCLUSION

Therefore, considering these facts and conclusions, the Division instructs the parties to proceed in District Court. There each party will have the advantage of discovery, the opportunity to use discovery to present their case, and opportunity to raise all defenses. Judicial economy will be served as issues will be adjudicated once. The application for Certificate of Compliance is stayed and the Division will not take further action on the application until after the case in District Court is resolved.

DATED this 26 day of April, 2011.



Mark B. Steinagel, Director

Exhibit B

Darwin H. Bingham (#7810)
SCALLEY READING BATES
HANSEN & RASMUSSEN, P.C.
15 West South Temple, Suite 600
Salt Lake City, Utah 84101
Telephone: (801) 531-7870
Facsimile: (801) 531-7968
E-mail: dbingham@scalleyreading.net

Attorneys for RMD Construction Ltd., LLC and Robert Matthew Dickey

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR WASATCH COUNTY
HEBER CITY DEPARTMENT, STATE OF UTAH

PROBUILD NORTH LLC d/b/a
BUTTERFIELD LUMBER, a Washington
limited liability company,

Plaintiffs,

v.

RMD CONSTRUCTION LTD., LLC, a Utah
limited liability company; ROBERT
MATTHEW DICKEY, an individual; A.
RICHARD BROWN, JR., aka Rick Brown
and DIANE BROWN aka Dianne Brown, as
personal representatives of the estate of Asa
Richard Brown; and JOHN DOES (all
unknown persons who claim any interest in
the subject matter of this action),

Defendants.

STIPULATION FOR DISMISSAL WITH
PREJUDICE

Civil No. 100500416

Judge Derek P. Pullan

A. RICHARD BROWN, JR., aka Rick Brown and DIANE BROWN aka Dianne Brown, as personal representatives of the estate of Asa Richard Brown,

Cross-Claimant

v.

RMD CONSTRUCTION LTD., LLC, a Utah limited liability company; and ROBERT MATTHEW DICKEY, an individual,

Cross-Claim Defendant

RMD CONSTRUCTION LTD., LLC, a Utah limited liability company;

Counterclaimant,

v.

A. RICHARD BROWN, JR., aka Rick Brown and DIANE BROWN aka Dianne Brown, as personal representatives of the estate of Asa Richard Brown,

Counterclaim Defendants.

The parties to the above-captioned matter, by and through their respective counsel, hereby stipulate and agree that the above-captioned matter should be dismissed as to all claims against all parties, with prejudice. A proposed Order has been submitted with this Stipulation.

DATED this 16th day of August, 2013.

/s/ Darwin H. Bingham
Attorney for RMD Construction Ltd, LLC
and Robert Matthew Dickey

DATED this 20th day of August, 2013.

/s/ Scott DeGraffenreid
Attorney for ProBuild North, LLC dba
Butterfield Lumber

DATED this 14th day of August, 2013.

/s/Ronald C. Barker
Attorney for A. Richard Brown, Jr. aka Rick
Brown and Dianne Brown, as personal
representatives of the Estate of Asa Richard Brown

Exhibit C

The Order of Court is stated below:

Dated: September 04, 2013
06:31:25 PM

/s/ Derek P. Pullan
District Court Judge



Darwin H. Bingham (#7810)
SCALLEY READING BATES
HANSEN & RASMUSSEN, P.C.
15 West South Temple, Suite 600
Salt Lake City, Utah 84101
Telephone: (801) 531-7870
Facsimile: (801) 531-7968
E-mail: dbingham@scalleyreading.net

Attorneys for RMD Construction Ltd., LLC and Robert Matthew Dickey

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR WASATCH COUNTY
HEBER CITY DEPARTMENT, STATE OF UTAH

PROBUILD NORTH LLC d/b/a
BUTTERFIELD LUMBER, a Washington
limited liability company,

Plaintiffs,

v.

RMD CONSTRUCTION LTD., LLC, a Utah
limited liability company; ROBERT
MATTHEW DICKEY, an individual; A.
RICHARD BROWN, JR., aka Rick Brown
and DIANE BROWN aka Dianne Brown, as
personal representatives of the estate of Asa
Richard Brown; and JOHN DOES (all
unknown persons who claim any interest in
the subject matter of this action),

Defendants.

ORDER FOR DISMISSAL WITH
PREJUDICE

Civil No. 100500416

Judge Derek P. Pullan

A. RICHARD BROWN, JR., aka Rick Brown and DIANE BROWN aka Dianne Brown, as personal representatives of the estate of Asa Richard Brown,

Cross-Claimant

v.

RMD CONSTRUCTION LTD., LLC, a Utah limited liability company; and ROBERT MATTHEW DICKEY, an individual,

Cross-Claim Defendant

RMD CONSTRUCTION LTD., LLC, a Utah limited liability company;

Counterclaimant,

v.

A. RICHARD BROWN, JR., aka Rick Brown and DIANE BROWN aka Dianne Brown, as personal representatives of the estate of Asa Richard Brown,

Counterclaim Defendants.

The Court, having reviewed the Stipulation for Dismissal With Prejudice entered into by the parties, and good cause appearing therefore, IT IS HEREBY ORDERED that the above-captioned matter is hereby dismissed as to all claims against all parties, with prejudice.

DATED this _____ day of _____, 2013.

BY THE COURT:

Pullan Derek P.
Fourth District Court Judge

Approved as to substance and form:

/s/ Scott DeGraffenreid
Attorney for ProBuild North, LLC dba

/s/ Ronald C. Barker
Attorney for A. Richard Brown, Jr. aka Rick
Brown and Dianne Brown, as personal
representatives of the Estate of Asa Richard Brown

Application Report

Property ID: WEASHI001

Application Examined by: Dane

Homeowner Application

July 16, 2014

Homeowner: Zhan Shimanovich

Original Contractor: Weatherguard Roofing LLC

License Number: 5850368

License Issue Date: 4/4/2005

Type: Licensed Contractor

License End Date:

Abstract and Recommendation

Division's Recommendation: Dismiss

- On July 30, 2009 the division issued an order staying the application until the parties case in District Court was resolved (Exhibit A).
- On May 18, 2012 a stipulated motion to dismiss action with prejudice was filed (Exhibit B).
 - The motion states that the parties entered a Settlement Agreement resolving any and all claims between them.
- On May 22, 2012 an Order granting the stipulated motion to dismiss with prejudice was granted (Exhibit C).

Based on the parties resolving any and all claims between them the division recommends that this application be dismissed and that no further action be taken by the division.

Exhibit A

Dane Ishihara
Residence Lien Recovery Fund Program Manager
160 East 300 South, 1st Floor Lobby
Salt Lake City, UT 84114-6741

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE
STATE OF UTAH

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF **ZHAN
SHIMANOVICH** (“HOMEOWNER”) FOR
THE RESIDENCE LOCATED AT **3117 S
2750 E, SLC, UT 84109-2846** DESCRIBED
AS **LOT 36 EAST MILLCREEK
HEIGHTS**

ORDER

In regard to the application for Certificate of Compliance for the above-referenced residence, Zhan Shimanovich (“Homeowner”) and Weatherguard Roofing LLC (“Original Contractor”) have submitted evidence and statements relating to their dispute over whether the statutory requirements for lien protection afforded by the Residence Lien Restriction and Lien Recovery Fund Act have been satisfied.

APPLICATION HISTORY

The Homeowner submitted an application for a Certificate of Compliance on October 13, 2008. The Homeowner argues that evidence in the application file demonstrates they paid the Original Contractor in full for the value of work he completed before being released from the project. However, the Original Contractor alleges that the Homeowner failed to pay him in full. Although both parties have submitted statements and documentation, a preponderance of the evidence received by the Division thus far fails to adequately support either position. Upon review of lengthy documentation and written response prepared by all parties, the Division concludes the following:

**PARTIES' ABILITY TO PREPARE FOR HEARING AND PRESENTATION OF CASE
HAMPERED BY INABILITY TO CONDUCT DISCOVERY**

Per Utah Code Ann. § 38-11-110, a Certificate of Compliance is adjudicated in an informal proceeding. Utah Code Ann. § 63-46b-5(1)(e) prohibits discovery in informal proceedings. Therefore, informal proceedings do not permit interrogations, requests for production of documents, admissions, and depositions to help explain the multitude of documents submitted by participating parties. Considering the numerous documents submitted, it is likely that additional factual information would be discovered if parties had the opportunity for discovery. Therefore, the Division concludes that fairness would be better served if each party were permitted to protect their interests in district court where discovery is available.

JUDICIAL ECONOMY

Should the Division continue to process this application, there is a substantial possibility that by the time it is resolved in District Court, the matter will have been considered before three separate adjudicative bodies and two separate branches of government. First, the case would be subject to an initial informal adjudication by the Residence Lien Recovery Fund Advisory Board and the Division Director. The Original Contractor has a compelling interest in preventing his loss of license. The homeowner has a compelling interest in protecting himself from multiple mechanics' liens. Each party has retained legal counsel to argue in favor of their respective positions. Regardless of the board's decision, the case will likely come before the Department on agency review. After agency review, the case will likely be heard de novo in District Court for another adjudication. At that point, the issue will have been considered before three separate adjudicative bodies and two separate branches of government. The Division maintains that such a lengthy and costly method of adjudicating an issue is ineffective use of government and private resources. Alternatively, the parties are able to continue litigating the issue in district court where a schedule for upcoming depositions, interrogatories, and discovery has already been set. By

continuing to proceed in District Court, judicial economy will be served and all participating parties will avoid costs associated with litigation before multiple adjudicative bodies.

CONCLUSION

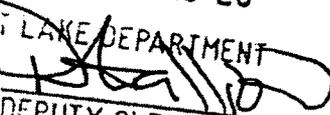
Therefore, considering these facts and conclusions, the Division instructs the parties to proceed in District Court. There each party will have the advantage of discovery, the opportunity to use discovery to present their case, and the opportunity to raise all defenses. Judicial economy will be served as issues will be adjudicated once. The application for Certificate of Compliance is stayed and the Division will not take further action on the application until after the case in District Court is resolved.

DATED this 30 day of July, 2009.



Mark B Steinagel, Director

Exhibit B

FILED
THIRD DISTRICT COURT
12 MAY 18 AM 10:23
SALT LAKE DEPARTMENT
BY 
DEPUTY CLERK

Matt C. Osborne, USB No. 7271
OSBORNE & BARNHILL, P.C.
11576 South State Street, Bldg. 204
Draper, Utah 84020
Telephone: (801) 571-2555
Facsimile: (801) 571-9929

Attorney for Michael Pittman and Weatherguard Roofing, LLC

THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

BURTON LUMBER & HARDWARE CO., a
Utah corporation,

Plaintiff,

v.

WEATHERGUARD ROOFING, LLC, a
Utah limited liability company, MICHAEL
RAY PITTMAN, an individual, ZHAN G.
SHIMANOVICH, an individual, IRINA A
SHIMANOVICH, an individual,

Defendants.

**STIPULATED MOTION TO DISMISS
ACTION WITH PREJUDICE**

Civil No. 090901588

Judge Sandra Peuler

Assignee to Plaintiff Burton Lumber & Hardware Co. and Defendants Zhan G. Shimanovich and Irina A. Shimanovich, by and through their counsel, Brett N. Anderson, Blackburn & Stoll, LC, and Defendants Weatherguard Roofing, LLC and Michael Ray Pittman, by and through their counsel, Matt C. Osborne, Osborne & Barnhill, P.C., hereby request an order dismissing all

claims set forth in the above-entitled matter with prejudice as the parties have entered into a Settlement Agreement resolving any and all claims between them.

The parties, by and through their undersigned counsel, hereby stipulate to the dismissal of all claims set forth in the above-entitled matter with prejudice.

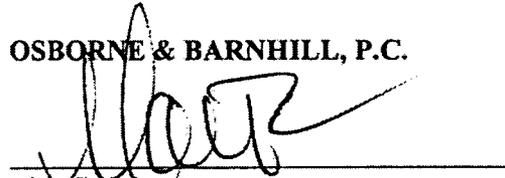
DATED this 14th day of ~~February~~^{May}, 2012.

BLACKBURN & STOLL, LC



Brett N. Anderson
Attorney for Assignee to Plaintiff and Defendants
Zhan G. and Irina A. Shimanovich

OSBORNE & BARNHILL, P.C.



Matt C. Osborne
Attorney for Defendants Weatherguard Roofing,
LLC and Michael Ray Pittman

Exhibit C

FILED DISTRICT COURT
Third Judicial District

MAY 22 2012

SALT LAKE COUNTY
Kathy Groves
Deputy Clerk

Matt C. Osborne, USB No. 7271
OSBORNE & BARNHILL, P.C.
11576 South State Street, Bldg. 204
Draper, Utah 84020
Telephone: (801) 571-2555
Facsimile: (801) 571-9929

Attorney for Defendant Michael Pittman and
Defendant/Crossclaimant Weatherguard Roofing, LLC

THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

BURTON LUMBER & HARDWARE CO., a
Utah corporation,

Plaintiff,

v.

WEATHERGUARD ROOFING, LLC, a
Utah limited liability company, MICHAEL
RAY PITTMAN, an individual, ZHAN G.
SHIMANOVICH, an individual, IRINA A
SHIMANOVICH, an individual,

Defendants.

**ORDER GRANTING STIPULATED
MOTION TO DISMISS WITH
PREJUDICE**

Civil No. 090901588

Judge Sandra Peuler

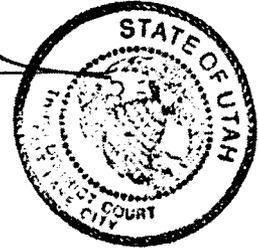
Pursuant to the parties' Stipulated Motion to Dismiss with Prejudice,

NOW, THEREFORE, IT IS HEREBY ORDERED, that all claims set forth in the above-
entitled action be dismissed with prejudice.

DATED this ^{may} 22 day of January, 2012.

By the Court:

Sandra Peuler
The Honorable Sandra Peuler
Third District Court Judge



Approved as to form:

BLACKBURN & STOLL, LC

A handwritten signature in black ink, appearing to be "Brett N. Anderson", written over a horizontal line.

Brett N. Anderson
Attorney for Plaintiff Assignee and Defendants
Zhan G. and Irina A. Shimanovich

F:\Clients\Matt\Pitman, Mike\Shimanovich\Order to Dismiss.wpd

CERTIFICATE OF COMPLIANCE

RECOMMENDED FOR DENIAL

- EXPLANATION REQUIRED-

Application Report

Property ID: LEWCHR001

Application Examined by: Dane

Homeowner Application

July 16, 2014

Homeowner: McKay Christensen

Homeowner's Attorney: Lavar Christensen

Original Contractor: Lewis Development Corporation

License Number: 345361

License Issue Date: 9/30/1997

Type: Licensed Contractor

License End Date: 11/30/2009

Original Contractor's Attorney: Jack W Reed

Abstract and Recommendation

Division's Recommendation: Deny

- On May 12, 2009 the division sent a conditional denial to the applicant stating that the application did not meet the requirements for Certificate of Compliance. The applicant's evidence established that the residence was occupied seven days after the requirements of Utah Code 38-11-102 (18) (*Exhibit A*).
- On August 20, 2009 the division issued an order staying the application until the parties concluded their litigation in District Court (*Exhibit B*).
- On April 29, 2011 an Order of Dismissal with Prejudice was entered regarding the pertinent litigation (*Exhibit C*).

The Order of Dismissal with Prejudice does not affect the division's original analysis that the property fails to qualify as an "owner-occupied residence." Thus, the division recommends that the application be denied because the property fails to meet the definition of "owner-occupied residence" as required by Utah Code 38-11-102 (18).

Utah Code 38-11-102 (18) states:

"Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days from the date of the completion of the construction on the residence.

Exhibit A



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

FRANCINE A. GIANI
Executive Director

F. DAVID STANLEY
Division Director

May 12, 2009

MCKAY CHRISTENSEN
975 E ALPINE BLVD
ALPINE UT 84004-1235

**Subject: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: LEWCHR001
Homeowner: McKay Christensen
Original Contractor: Lewis Development Corporation**

RESPONSE DUE DATE: June 11, 2009

Dear Homeowner:

We have reviewed your application for a Certificate of Compliance. Based upon that review, we find the application documents are incomplete and do not demonstrate that you meet all the requirements for issuance of a Certificate. Therefore, we are writing to inform you of the additional information we need.

Owner-Occupied Residence – Inadequate Evidence: To qualify for protection from mechanics' liens, the residence at issue in an application must be an "owner-occupied residence." One of the requirements for an owner-occupied residence is the owner or the owner's tenant/lessee must occupy the residence within 180 days of completion of construction.

Our review of your application shows construction was completed on **May 30, 2008** and you began occupying the residence on **December 3, 2008**. The difference between these two dates is **187**.

Payment in Full: To qualify for protection from mechanics' liens, a homeowner must pay the original contractor in full according to the terms of the written contract and any modifications to those terms. We have not received any evidence showing you paid the contract in full as required. Additionally, the original contractor submitted a letter

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF

McKay Christensen
(Applicant's Name)

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

LOCATED AT 4768 N. Verona Court
(Address, City, and State of the property)

Lehi, Utah 84043

STATE OF UTAH)
 :SS.
COUNTY OF Salt Lake)

I, McKay Christensen, being first duly sworn state as follows:
(Name of person completing application)

1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. To the best of my knowledge, the information contained in this application and the supporting documents is free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

6. The homeowner is the owner of a detached single family residence duplex other type of residence (check the appropriate box) located at:

4768 N. Verona Court Lehi UT 84043
Street Address City State Zip

7. Construction on this residence was or will be completed on: 5 / 30 / 08 (date).

8. The homeowner is will be is not will not be occupying this property as a primary or secondary residence (check the appropriate box).

9. The homeowner began or will begin occupying this property as a primary or secondary residence on: 12 / 3 / 08 (date).

10. The homeowner is is not renting or leasing this property as a primary or secondary residence to:

N/A

Renter's or Lessee's Name Street Address City State Zip

11. The homeowner's tenant or lessee began or will begin occupying this property on N/A / / (date).

12. I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

[Signature]
Signature of Affiant (sign here)

4 / 7 / 09
Date

Subscribed and sworn to before me this 7th day of April, 2009

[Signature]
Signature of Notary Public

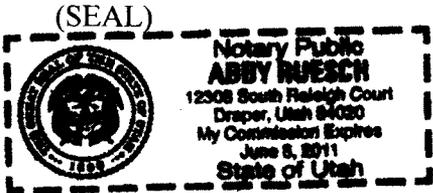


Exhibit B

Dane Ishihara
Residence Lien Recovery Fund Program Manager
160 East 300 South, 1st Floor Lobby
Salt Lake City, UT 84114-6741

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE
STATE OF UTAH

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF **MCKAY
CHRISTENSEN** (“HOMEOWNER”) FOR
THE RESIDENCE LOCATED AT **4768 N
VERONA COURT, LEHI, UT**

ORDER

In regard to the application for Certificate of Compliance for the above-referenced residence, McKay Christensen (“Homeowner”) and Lewis Development Corporation (“Original Contractor”) have submitted evidence and statements relating to their dispute over whether the statutory requirements for lien protection afforded by the Residence Lien Restriction and Lien Recovery Fund Act have been satisfied.

APPLICATION HISTORY

The Homeowner submitted an application for a Certificate of Compliance on April 9, 2009. The Homeowner argues that evidence in the application file demonstrates they paid the Original Contractor in full for the value of work he completed before being released from the project. However, the Original Contractor alleges that the Homeowner failed to pay him in full. Although both parties have submitted statements and documentation, a preponderance of the evidence received by the Division thus far fails to adequately support either position. Upon review of lengthy documentation and written response prepared by all parties, the Division concludes the following:

**PARTIES' ABILITY TO PREPARE FOR HEARING AND PRESENTATION OF CASE
HAMPERED BY INABILITY TO CONDUCT DISCOVERY**

Per Utah Code Ann. § 38-11-110, a Certificate of Compliance is adjudicated in an *informal* proceeding. Utah Code Ann. § 63-46b-5(1)(e) prohibits discovery in informal proceedings. Therefore, informal proceedings do not permit interrogations, requests for production of documents, admissions, and depositions to help explain the multitude of documents submitted by participating parties. Considering the numerous documents submitted, it is likely that additional factual information would be discovered if parties had the opportunity for discovery. Therefore, the Division concludes that fairness would be better served if each party were permitted to protect their interests in district court where discovery is available.

JUDICIAL ECONOMY

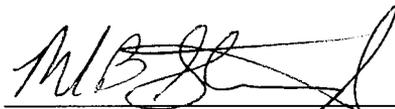
Should the Division continue to process this application, there is a substantial possibility that by the time it is resolved in District Court, the matter will have been considered before three separate adjudicative bodies and two separate branches of government. First, the case would be subject to an initial informal adjudication by the Residence Lien Recovery Fund Advisory Board and the Division Director. The Original Contractor has a compelling interest in preventing his loss of license. The homeowner has a compelling interest in protecting himself from multiple mechanics' liens. Each party has retained legal counsel to argue in favor of their respective positions. Regardless of the board's decision, the case will likely come before the Department on agency review. After agency review, the case will likely be heard *de novo* in District Court for another adjudication. At that point, the issue will have been considered before three separate adjudicative bodies and two separate branches of government. The Division maintains that such a lengthy and costly method of adjudicating an issue is ineffective use of government and private resources. Alternatively, the parties are able to continue litigating the issue in district court where a schedule for upcoming depositions, interrogatories, and discovery has already been set. By

continuing to proceed in District Court, judicial economy will be served and all participating parties will avoid costs associated with litigation before multiple adjudicative bodies.

CONCLUSION

Therefore, considering these facts and conclusions, the Division instructs the parties to proceed in District Court. There each party will have the advantage of discovery, the opportunity to use discovery to present their case, and opportunity to raise all defenses. Judicial economy will be served as issues will be adjudicated once. The application for Certificate of Compliance is stayed and the Division will not take further action on the application until after the case in District Court is resolved.

DATED this 20 day of August, 2009.



Mark B Steinagel, Director

Exhibit C

FILED
Fourth Judicial District Court
of Utah County, State of Utah
4/29/11 *My* Deputy

Ronald G. Russell (4134)
Royce B. Covington (10160)
PARR BROWN GEE & LOVELESS, P.C.
185 South State Street, Suite 800
Salt Lake City, Utah 84111
Telephone: (801) 532-7840
Facsimile: (801) 532-7750

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH

A GOOD BRICK MASON, INC.

Plaintiff,

v.

LEWIS DEVELOPMENT CORPORATION,
d/b/a ARTHUR LEWIS FINE HOMES, et al.

Defendants.

ORDER OF DISMISSAL WITH
PREJUDICE

Civil No. 090400490

Judge Howard

Based upon the Joint Motion and Stipulation for Order of Dismissal with Prejudice, filed herein, and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that all claims, counterclaims and cross-claims in the above-captioned action are hereby dismissed, with prejudice, each party to bear his or its own costs and attorneys' fees.

DATED this 29 day of April, 2011.

BY THE COURT:

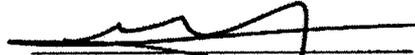


Judge Howard
Fourth Judicial District Court Judge



Approved as to form:

BENNETT TUELLER JOHNSON & DEERE



Nate Ashcraft
Attorneys for A Good Brick Mason

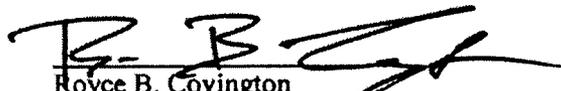
PETERSON REED WARLAUMONT & STOUT

Jack Reed
Attorneys for Lewis Development

LAVAR CHRISTENSEN

LaVar Christensen
Attorney for McKay Christensen

PARR BROWN GEE & LOVELESS



Royce B. Covington
Attorneys for First Horizon Home Loans

DATED this _____ day of _____, 2011.

BY THE COURT:

Judge Howard
Fourth Judicial District Court Judge

Approved as to form:

BENNETT TUELLER JOHNSON & DEERE

Nate Ashcraft
Attorneys for A Good Brick Mason

PETERSON REED WARLAUMONT & STOUT

Jack Reed 4.15.11
Jack Reed
Attorneys for Lewis Development &
Arrowstar Construction, Inc.

LA VAR CHRISTENSEN

LaVar Christensen
Attorney for McKay Christensen

PARR BROWN GEE & LOVELESS

Royce B. Covington
Attorneys for First Horizon Home Loans

DATED this _____ day of _____, 2011.

BY THE COURT:

Judge Howard
Fourth Judicial District Court Judge

Approved as to form:

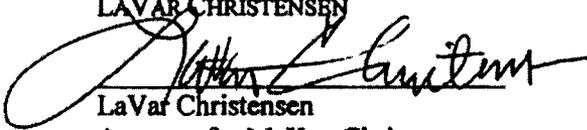
BENNETT TUELLER JOHNSON & DEERE

Nate Ashcraft
Attorneys for A Good Brick Mason

PETERSON REED WARLAUMONT & STOUT

Jack Reed
Attorneys for Lewis Development &
Arrowstar Construction, Inc.

LAVAR CHRISTENSEN



LaVar Christensen
Attorney for McKay Christensen

PARR BROWN GEE & LOVELESS

Royce B. Covington
Attorneys for First Horizon Home Loans

APPLICATION FOR PAYMENT

RECOMMENDED FOR DENIAL

- EXPLANATION REQUIRED-

Claim Report

Informal Claim

Claim Number: LRF-2014-0505-01

July 16, 2014

Claim Examined by: Dane

Claimant: Burton Lumber & Hardware

LRF Registration # 313993

Registration Date: 1/1/1995

Expiration Date: 11/30/2015

Claimant Classification: Supplier

Claimant's Attorney: Paul E Mayer

Nonpaying Party: Irontown Housing Company Inc

Contracting Entity: Irontown Housing Company Inc

Homeowners: Heidi Wilson and Michael Steele

Abstract and Recommendation

Division's recommended disposition: Deny

The nonpaying party listed in the claim is Irontown Housing Company Inc. Irontown Housing Company Inc has never held a valid active Utah contractors license. Therefore, the claimant failed to comply with UTAH CODE ANN. § 38-11-204 (4) (f) which requires:

To recover from the fund, . . . a qualified beneficiary shall establish that . . . the qualified beneficiary provided qualified services to a contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

In a response to the Division the claimant appears to argue that Irontown Housing Company Inc was operating under the license of Richard Valgardson. The Division finds that the claimants assertion is without merit (*Exhibit A*). The claimants response includes the corporation business entity information demonstrating that Irontown Housing Company Inc was a legally registered business entity with entity number 1277717-014. This establishes that Irontown Housing Company Inc and Richard Valgardson are separate entities. Furthermore, Irontown Housing Company Inc could not work under another entities license.

Simply put, the claimant failed to meet the requirements of UTAH CODE ANN. § 38-11-204 (4) (f) because they did not provide qualified services to a licensed or exempt entity. Therefore, the Division recommends that the application be denied.

Exhibit A

Response

Paul E. Mayer
Attorney at Law

Licensed to practice in
Utah and Washington

P.O. Box 27206
Salt Lake City, Utah 84127-0206
Email: paulm@burtonlumber.com

Telephone: 801-952-3787
Facsimile: 801-952-3734

July 1, 2014

State of Utah, Department of Commerce
DOPL-LRF
P.O. Box 146741
Salt Lake City, Utah 84114-6741

RE: Notice of Incomplete or Insufficient Claim Application
Conditional Denial of Claim
Lien Recovery Fund Claim No. LRF-2014-0505-01
Claimant: Burton Lumber & Hardware Co.
Original Contractor: Irontown Housing Company Inc.
Nonpaying Party: Irontown Housing Company Inc.
Homeowner: Heidi Wilson/Michael Steele

To Whom It May Concern:

This letter constitutes Claimant's response to DOPL's letter dated June 19, 2014 regarding Conditional Denial of Claim in the above-referenced Claim, LRF-2014-0505-01, wherein DOPL stated that nonpaying party in this matter was not licensed. Burton Lumber believes that its claim satisfies all of the requirements necessary to allow recovery under the Residence Restriction Lien Recovery Fund Act (the "Act").

As was stated in DOPL's Notice of Incomplete or Insufficient Claim Application and Conditional Denial of Claim, the Act does require that an applicant have performed work or supplied material to a licensed contractor. While it is true that Irontown Housing Company Inc. ("Irontown") does not possess a contractor's license in its name, the facts set forth in Burton Lumber's application show that for all intents and purposes Irontown was not only operating under a valid contractor's license, but that the only real failure of Burton Lumber's application is the name on the contractor's license.

In its claim, Burton Lumber attached, as evidence demonstrating that Irontown was a licensed contractor, a copy of the contractor's license for Richard Valgardson ("Mr. Valgardson"). Mr. Valgardson possessed a valid contractor's license during the applicable dates of March 22, 2013 through May 21, 2013. (See attached Exhibit "A"). Further, Mr. Valgardson was, at all relevant times, the president, vice president, director and registered agent for Irontown. (See attached Exhibit "B").

RECEIVED

JUL 02 2014

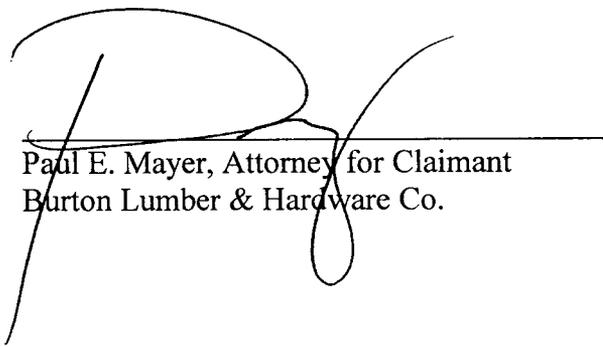
**DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING**

Also, relevant to this discussion is the reason for requiring a contractor's license. The purpose for the requirement that a builder possess a contractor's license is "the protection of the public." Govert Copier Painting v. Craig Van Leeuwen, 801 P.2d 163, 169, 170 (Utah App. 1990).

Based on the fact that Mr. Valgardson held a valid contractor's license and was not only a principal of Irontown, but the president, it is clear that the public policy purpose of protecting the public was served. However, and more important in determining the validity of Burton Lumber's application, Irontown was operating under a valid contractor's license, which was possessed by Mr. Valgardson—Irontown's president, vice president, director, and registered agent. Because of the clear and incontrovertible connection between Irontown and Valgardson, the fact that Valgardson possessed a contractor's license and Irontown did not is, Burton Lumber respectfully believes, a distinction without a difference.

Accordingly, it is Claimant's experience and assertion that Irontown Housing Company Inc., by and through the contractor's license held by Richard Valgardson, a principal of Irontown Housing Company Inc., was in fact a licensed contractor during the period of time that building materials were provided by Claimant to Irontown Housing Company Inc. Claimant respectfully requests that the Division of Occupational and Professional Licensing re-evaluate its Notice of Incomplete or Insufficient Claim Application and Conditional Denial of Claim and find that Burton Lumber's application is satisfactory for approval.

Very truly yours,



Paul E. Mayer, Attorney for Claimant
Burton Lumber & Hardware Co.

PEM/lis
Enclosures

Details for RICHARD VALGARDSON

License Information

Name:	RICHARD VALGARDSON	
City, State, Zip, Country:	PROVO, UT 84606, UNITED STATES	
Profession:	CONTRACTOR	
License Type:	CONTRACTOR WITH LRF	
License Number:	369801-5501	
Obtained By:	UNKNOWN	
License Status:	EXPIRED	
Original Issue Date:	04/06/1999	
Expiration Date:	11/30/2013	
Agency and Disciplinary Action*:	NONE	
Docket Number:	N/A	
Classification(s):	Qualifier(s):	Association Date(s):
R100 - RESIDENTIAL AND SMALL COMMERCIAL	RICHARD VALGARDSON	04/06/1999

This information is accurate as far as is contained in the Division's official records. It does not reflect whether an entity required to maintain a current registration with the Division of Corporations is current in that registration. You can verify such status at <https://secure.utah.gov/bes/bes>. Additionally, this verification does not show a complete license history or interruptions of licensure. Original issue dates listed as 01/01/1910 and 01/01/1911 were unknown at the time the Division implemented its first electronic licensing database.

*NOTE: The disciplinary documents linked to this website include final orders issued by DOPL, with the exception of citations. [Click here for citations.](#)

EXHIBIT A

IRONTOWN HOUSING COMPANY, INC.

Entity Number: 1277717-0142
Company Type: Corporation - Domestic - Profit
Address: 2202 S MOUNTAIN VISTA LN Provo, UT 84606
State of Origin: UT
Registered Agent: RICHARD VALGARDSON
Registered Agent Address:
2202 S MOUNTAIN VISTA LN
Provo, UT 84606

Status: Expired

Status: Expired as of 11/26/2013
Status Description: Failure to File Renewal
Employment Verification: Not Registered with Verify Utah

History

Registration Date: 08/15/1995
Last Renewed: 07/23/2012

Additional Information

NAICS Code: 2332 **NAICS Title:** 2332-Residential Building Construction

Search by:

Name:

EXHIBIT B

Registered Principals

Name	Type	City	Status
IRONTOWN HOUSING COMPANY, INC.	Corporation	Provo	Expired

Position	Name	Address
Registered Agent	RICHARD VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
President	RICHARD VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
Vice President	RICHARD VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
Director	RICHARD VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
Treasurer	SHEILA VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
Director	SHEILA VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606
Secretary	SHEILA VALGARDSON	2202 S MOUNTAIN VISTA LN Provo UT 84606

If you believe there may be more principals, click here to

Search by:

Name:

APPLICATION FOR PAYMENT

RECOMMENDED FOR APPROVAL

- NO EXPLANATION REQUIRED-

Claim Report

Informal Claim

Claim Number LRF-2014-0626-01

August 6, 2014

Claim Examined by: Dane

Claimant: Stock Building Supply West Inc

LRF Registration #: 226118

Registration Date: 1/1/1995

Expiration Date: 11/30/2015

Contractor License #:

Issue Date:

Expiration Date:

Claimant Classification: Contractor

Claimant's Attorney: Randy Christiansen

Nonpaying Party: Picasso Custom Homes LLC

Contractor License # 7464077

NPP Classification: Specialty Contractor

Original Contractor: Picasso Custom Homes LLC

Type: Licensed Contractor

Contractor License #: 7464077

License Issuance Date: 11/30/2009

License End Date: 11/30/2013

Homeowner(s) Eric & Mindy Quist

Abstract and Recommendation

Division's recommended disposition: Approve Full Payment

Detailed Analysis and Findings of Facts

Date Claimant Recorded Lien

1/24/2014

Evidence in support of date: Lien

Date Claimant file civil action or NPP filed bankruptcy: 2/24/2014

Evidence in support of date: Complaint

Number of days difference: 30

Did Claimant obtain judgment against NPP? Yes

Date Claimant obtained judgment or NPP filed for bankruptcy 4/1/2014

Evidence in support of date: Judgment

Is Claimant a qualified beneficiary? Yes

Did Homeowner enter into a written contract with Original Contractor for the performance of qualified services? Yes

Evidence of a written contract Certificate of Compliance

Was Original Contractor Licensed on contract date? Yes

Did Homeowner pay Original Contractor in full? Yes

Evidence of full payment: Certificate of Compliance

Does residence qualify as "owner-occupied"? Yes

Evidence of Owner Occupancy: Certificate of Compliance

Did Claimant provide qualified services? Yes

Evidence of qualified services: Invoice

Was NPP Licensed? Yes

Did NPP pay Claimant for qualified services? No

Evidence of nonpayment: Judgment

Did Claimant exhaust collection remedies? Yes

Payment Checklist

		<u>Claimed</u>		<u>Approved</u>		<u>Difference*</u>
Qualified Services:	\$	1,333.00	\$	1,333.00	\$	0.00
Pre-judgment Atty Fees:		109.82		109.82		0.00
Pre-judgment Costs:		69.15		69.15		0.00
Post-judgment Atty Fees:		90.19		90.13		-0.06
Post-judgment Costs:		9.92		9.99		0.07
Interest:		27.10		32.76		5.66
Totals	\$	1,639.18	\$	1,644.85	\$	5.67

* Positive differences denote amounts approved in excess of amounts claimed; negative differences denote amounts denied.

Evidence of qualified services amount: Invoice

Evidence of pre-judgment attorney fee amount: Judgment

Attorney fees limit per Utah Code Ann. § 38-11-203(3)(f) \$199.95

Evidence of pre-judgment costs: Judgment

Evidence of post-judgment attorney fees: Other (see comments)

Augmented Judgment

Explanation of post-judgment costs:

Augmented Judgment

Explanation of interest:

Interest calculated per Utah Code Ann. § 38-11-203(3)(c) in effect on date claim was filed. See attached schedule for details of interest calculations.

**Schedule of Interest
All Payments Due in Same Calendar Year
LRF-2014-0626-01**

Terms of Sale: N10
 Claim Filing Date: 6/26/2014
 Payment Due Date: 11/10/2013
 Interest Rate per UCA 38-11-203(3)(c) 3.250%
 Daily Interest Rate 0.0089%

Total Interest Allowed per UCA 38-11-203(3)(c) \$ 32.76

<u>Event Date</u>	<u>Interest?</u>	<u>Event Description</u>	<u>Changes to Qualified Service Balance</u>	<u>Qualified Service Balance</u>	<u>Number of Days Since Last Event</u>	<u>Interest Accrued Since Last Event</u>
11/10/2013	N	Payment due	\$ 1,333.00	1,333.00	0	\$ -
1/24/2014	N	Claimant filed lien on residence		1,333.00	75	8.90
2/24/2014	N	Claimant filed complaint against NPP		1,333.00	31	3.68
4/1/2014	N	Claimant obtained judgment against NPP		1,333.00	36	4.27
6/26/2014	N	Claimant filed application for payment		1,333.00	86	10.21
8/13/2014	N	Division director authorizes payment		1,333.00	48	5.70

Allocation Schedule
LRF-2014-0626-01
August 6, 2014

Gross Qualified Services for all Related Properties	9,409.70	(1)
Gross Qualified Services for Claim	1,333.00	(2)
Allocation Ratio for Claim Items	0.1417	(3)=(2)÷(1)
Pre-Judgment Items (total items if no judgment)		
Attorney Fees	775.00	(4)
Costs	488.00	(5)
Payments Received (if any)	-	(6)
Post-Judgment Items		
Attorney Fees	1,620.00	(7)
Costs	70.00	(8)
Allocation of Items		
Pre-Judgment Attorney Fees	109.82	(9)=(4)×(3)
Pre-Judgment Costs	69.15	(10)=(5)×(3)
Post-Judgment Attorney Fees	229.55	(11)=(7)×(3)
Post-Judgment Costs	9.92	(12)=(8)×(3)
Payments Received	-	(12)=(6)×(3)

Claim Report

Informal Claim

Claim Number LRF-2014-0701-01

August 6, 2014

Claim Examined by: Dane

Claimant: Stock Building Supply West Inc

LRF Registration #: 226118 Registration Date: 1/1/1995 Expiration Date: 11/30/2015

Contractor License #: Issue Date: Expiration Date:

Claimant Classification: Contractor

Claimant's Attorney: Randy Christiansen

Nonpaying Party: Picasso Custom Homes LLC

Contractor License # 7464077 NPP Classification: Specialty Contractor

Original Contractor: Picasso Custom Homes LLC

Type: Licensed Contractor Contractor License #: 7464077

License Issuance Date: 11/30/2009 License End Date: 11/30/2013

Homeowner(s) Josiah & Tina Scheid

Abstract and Recommendation

Division's recommended disposition: Approve Full Payment

Detailed Analysis and Findings of Facts

Date Claimant Recorded Lien 12/30/2013

Evidence in support of date: Lien

Date Claimant file civil action or NPP filed bankruptcy: 2/24/2014

Evidence in support of date: Complaint

Number of days difference: 55

Did Claimant obtain judgment against NPP? Yes

Date Claimant obtained judgment or NPP filed for bankruptcy 4/3/2014

Evidence in support of date: Judgment

Is Claimant a qualified beneficiary? Yes

Did Homeowner enter into a written contract with Original Contractor for the performance of qualified services? Yes

Evidence of a written contract Certificate of Compliance

Was Original Contractor Licensed on contract date? Yes

Did Homeowner pay Original Contractor in full? Yes

Evidence of full payment: Certificate of Compliance

Does residence qualify as "owner-occupied"? Yes

Evidence of Owner Occupancy: Certificate of Compliance

Did Claimant provide qualified services? Yes

Evidence of qualified services: Invoice

Was NPP Licensed? Yes

Did NPP pay Claimant for qualified services? No

Evidence of nonpayment: Judgment

Did Claimant exhaust collection remedies? Yes

Payment Checklist

		<u>Claimed</u>		<u>Approved</u>		<u>Difference*</u>
Qualified Services:	\$	10,987.68	\$	10,987.68	\$	0.00
Pre-judgment Atty Fees:		775.00		775.00		0.00
Pre-judgment Costs:		894.66		894.66		0.00
Post-judgment Atty Fees:		873.15		873.15		0.00
Post-judgment Costs:		20.00		20.00		0.00
Interest:		284.13		304.79		20.66
Totals	\$	13,834.62	\$	13,855.28	\$	20.66

* Positive differences denote amounts approved in excess of amounts claimed; negative differences denote amounts denied.

Evidence of qualified services amount: Invoice

Evidence of pre-judgment attorney fee amount: Judgment

Attorney fees limit per Utah Code Ann. § 38-11-203(3)(f) \$1,648.15

Evidence of pre-judgment costs: Judgment

Evidence of post-judgment attorney fees: Other (see comments)

Augmented Judgment

Explanation of post-judgment costs:

Augmented Judgment

Explanation of interest:

Interest calculated per Utah Code Ann. § 38-11-203(3)(c) in effect on date claim was filed. See attached schedule for details of interest calculations.

**Schedule of Interest
All Payments Due in Same Calendar Year
LRF-2014-0701-01**

Terms of Sale: N10
 Claim Filing Date: 7/1/2014
 Payment Due Date: 9/10/2013
 Interest Rate per UCA 38-11-203(3)(c) 3.250%
 Daily Interest Rate 0.0089%

Total Interest Allowed per UCA 38-11-203(3)(c) \$ 304.79

<u>Event Date</u>	<u>Stop Interest?</u>	<u>Event Description</u>	<u>Changes to Qualified Service Balance</u>	<u>Qualified Service Balance</u>	<u>Number of Days Since Last Event</u>	<u>Interest Accrued Since Last Event</u>
9/10/2013	N	Payment due	\$ 91.19	91.19	0	\$ -
10/10/2013	N	Payment due	\$ 2,910.00	3,001.19	30	0.24
10/10/2013	N	Payment due	\$ 8,650.00	11,651.19	0	-
12/20/2013	N	Payment received	\$ (663.51)	10,987.68	71	73.66
12/30/2013	N	Claimant filed lien on residence		10,987.68	10	9.78
2/24/2014	N	Claimant filed complaint against NPP		10,987.68	56	54.79
4/3/2014	N	Claimant obtained judgment against NPP		10,987.68	38	37.18
7/1/2014	N	Claimant filed application for payment		10,987.68	89	87.07
8/13/2014	N	Division director authorizes payment		10,987.68	43	42.07