

| | |
|---------------|-----------------------------|
| NK | 91 7108 2133 3935 8328 4282 |
| (P.O. Box) EG | 91 7108 2133 3935 8328 4299 |
| (Postal) EG | 91 7108 2133 3935 8328 4305 |

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
CONTRACTORS' REGISTRATION AND LICENSING BOARD
560 JEFFERSON BOULEVARD, SUITE 200
WARWICK, R.I. 02886

| | | |
|---|---|----------------------|
| In the Matter of: | : | |
| | : | |
| Ernest Ricci d/b/a Premier Home Restoration, LLC | : | CRLB No. 6625 |
| | : | |
| Respondent. | : | |
| | : | |

DECISION

I. INTRODUCTION

This matter arose pursuant to a Notice of Hearing (“Notice”) issued on April 11, 2024 by the Department of Business Regulation Contractors’ Registration and Licensing Board (“Department” or “Board”) to Ernest Ricci d/b/a Premier Home Restoration, LLC (“Respondent”). The Respondent is registered as a contractor pursuant to R.I. Gen. Laws § 5-65-1 *et seq.* A hearing was scheduled for October 11, 2024 at which time the Respondent did not appear. Pursuant to R.I. Gen. Laws § 5-65-6 and § 1.15.1 of 440-RICR-10-00-1 *General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings* (“Regulation”), service may be made by first-class mail or certified mail and service is complete upon mailing when sent to the last known address of the party. In this matter, notice of the hearing was sent to the Respondent’s last known addresses by first class mail and by electronic delivery.¹

¹ The notice of the full hearing was sent by first class mail and electronic delivery. The hearing was initially scheduled for October 4, 2024 but was continued to October 11, 2024 with the same remote call in. The Respondent’s brother contacted the Department in reference to the October 11, 2024 hearing date as the Respondent is currently incarcerated in federal prison. The Respondent’s brother indicated that he was monitoring the Respondent’s cell phone. Department’s Exhibits 11(a) (Department’s October 1, 2024 letter notifying the Respondent of the October 11, 2024 hearing date) and 11(b) (email sent to Respondent’s email address with letter notifying Respondent of hearing and Respondent’s brother’s email response and Department’s response).

Since the Respondent was adequately noticed of hearing, a remote hearing was held before the undersigned on October 11, 2024.² Additionally, § 1.17 of the Regulation³ provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Board was represented by counsel who rested on the record.⁴

II. JURISDICTION

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 5-65-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and 440-RICR-10-00-1 *General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings*.

III. ISSUE

Whether the Respondent violated R.I. Gen. Laws § 5-65-3 and R.I. Gen. Laws § 5-65-10(a), and if so, what should be the sanction(s).

IV. MATERIAL FACTS

Based on the pleadings and exhibits entered at hearing, it is undisputed as follows: The complainant (“Complainant” or “Homeowner”) entered into an agreement on March 21, 2022 for the Respondent to renovate the Complainant’s house in East Greenwich for which the Respondent was paid a deposit. The Respondent did not pull a permit for the renovations. On June 24, 2022, the Homeowner terminated their contract with the Respondent as they had found out the

² The undersigned hearing officer heard this matter pursuant to R.I. Gen. Laws § 5-65-12.

³ Section 1.17 of the Regulation provides as follows:

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer or Board may enter a default judgment against the defaulting Party or take such action based on the pleadings and/or other evidence submitted by the non-defaulting Party as the forum deems appropriate. Challenge to such an order shall be made as a motion for reconsideration per § 1.15.6 of this Part.

⁴ The record was kept open to October 16, 2024 for the Department to submit further exhibits which the Department did, and those were admitted as Department’s Exhibits 11 and 12).

Respondent was not registered as a contractor at the time of the contract and had not provided legible proof of insurance. The Complainant filed a complaint with the Board. The Board inspected said property. The Board's inspection determined that the work performed by the Respondent required a permit to be pulled but no permit had been pulled by the Respondent, and the Respondent was not registered as a contractor between June 1, 2021 to June 23, 2022. On August 1, 2022, the Board issued a notice of intent to assess civil penalty and opportunity for hearing to Respondent. On August 23, 2022, the Board issued a final order and suspension of registration to the Respondent. On August 23, 2022, the Board issued a notice of intent to refer debt to the Department of Revenue's collection unit. As a result of the notice of intent to refer debt, the Respondent requested a hearing. Department's Exhibits One (1) (Notice); Two (2) (contract); Three (3) (screenshot of property records in East Greenwich showing no permit pulled for the Homeowner's renovations); Four (4) (inspection report); Six (6) (email from Homeowner terminating contract and Respondent's reply); Seven (7) (notice of intent to assess civil penalty); Eight (8) (final order and suspension of registration); Nine (9) (notice of intent to refer debt); and Ten (10) (appeal).

V. DISCUSSION

A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, "the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that

renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998).

B. Standard of Review for an Administrative Hearing

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

C. Relevant Statutes

R.I. Gen. Laws § 5-65-3 provides in part as follows:

Registration for work on a structure required of contractor — Issuance of building permits to unregistered or unlicensed contractors prohibited — Evidence of activity as a contractor — Duties of contractors.

(a) A person shall not undertake, offer to undertake, or submit a bid to do work as a contractor on a structure unless that person has a current, valid certificate of registration for all construction work issued by the board. ***

(m) The contractor must see that permits required by the state building code are secured on behalf of the owner prior to commencing the work involved. The contractor’s registration number must be affixed to the permit as required by the state building code.

R.I. Gen. Laws § 5-65-10 provides in part as follows:

(a) The board or office may revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or office determines, after notice and opportunity for a hearing:

(1) That the registrant or applicant has violated § 5-65-3 or any other provision of this chapter or the regulations promulgated thereunder.

(10) The board may take disciplinary action against a contractor who performed work, or arranged to perform work, while the registration was suspended, invalidated, or revoked. Deposits received by a contractor and ordered returned are not considered a monetary award when no services or supplies have been received.

(15) That the registrant has misrepresented his or her registration status as valid when the registration was suspended, revoked, invalidated, inactive, or unregistered as required by the board.

(c) Subject to providing notice and an opportunity for a hearing:

(1) For each first violation of a particular section of this chapter or any rule or regulation promulgated by the board, a fine not to exceed five thousand dollars (\$5,000) may be imposed. Where corrective work is completed and/or if restitution is made to the person for whom the work was to be performed, the fine assessed may be reduced as determined by the board. Fines for violations may be imposed against registered contractors, as well as those persons required to be registered, by the board.

D. Whether the Respondent Violated the Statute

Based on the testimony and the exhibits entered at hearing, it was undisputed the Respondent entered into a contract with the homeowner when he was not registered as a contractor and that he misrepresented his status as a contractor, and he failed to secure the necessary permit for the project. The Respondent violated R.I. Gen. Laws § 5-65-3(a) (cannot undertake work without valid registration) and (m) (responsible for permit); and R.I. Gen. Laws § 5-65-10(a)(1) (violated R.I. Gen. Laws § 5-65-3); (10) (cannot undertake work without registration); and (15) (misrepresenting registration status).

E. Sanctions

R.I. Gen. Laws § 5-65-10(a) provides that a registration may be revoked for violations of R.I. Gen. Laws § 5-65-10. The Board requested that the Respondent's registration be revoked for these violations. The Board indicated that it was not seeking any administrative penalties if the Respondent's registration was revoked.

The Respondent had three (3) different matters that he resolved in 2022 by paying a \$1,000 administrative penalty in each matter. In 2022, he entered in a contract for work when he was not registered. The Complainant terminated the Respondent's contract because the Respondent had entered into it when unregistered and he was unable to provide proof of insurance. In response, the Respondent sent the Complainant a rude and dismissive email and stated that he believed the Complainant would not terminate a contract for those reasons. The Respondent failed to grasp a basic requirement of being a contractor: being registered and insured. The Respondent's actions and his email demonstrated a profound disregard for the statutory requirements of registration.

Based on the Respondent's prior sanctions and his disregard for the contractor registration requirements as demonstrated by his violations in this matter as well as those violations, the Respondent's registration should be revoked. No showing was made by the Respondent that his registration should not be revoked.

V. FINDINGS OF FACT

Based on the foregoing, the undersigned makes the following findings of fact:

1. The Notice was issued on April 11, 2024 by the Board to the Respondent.
2. The Respondent is registered as a contractor pursuant to R.I. Gen. Laws § 5-65-1

et seq.

3. A hearing was scheduled for October 11, 2024 at which time the Respondent did not appear. As the Respondent was adequately notified, the hearing was held with the Board resting on the record.

4. Pursuant to § 1.17 of the Regulation, the Respondent is declared to be in default for failing to appear at the hearing.

5. The facts contained in Sections I, IV, and V are incorporated by reference herein.

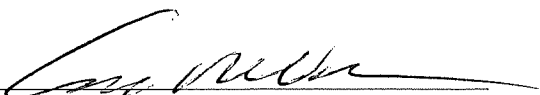
VII. CONCLUSIONS OF LAW

Based on the foregoing, the Respondent violated R.I. Gen. Laws § 5-65-3(a) and (m); and R.I. Gen. Laws § 5-65-10(a)(1); (10); and (15).

Pursuant to R.I. Gen. Laws § 5-65-10(a), the Respondent's contractor registration is revoked effective **immediately** for violating R.I. Gen. Laws § 5-65-3(a) and (m); and R.I. Gen. Laws § 5-65-10(a)(1); (10); and (15).

Issued by R.I. Contractors' Registration and Licensing Board.

Entered: October 24, 2024


Catherine R. Warren
Hearing Officer

NOTICE OF APPELLATE RIGHTS

Pursuant to R.I. Gen. Laws § 5-65-20 and § 1.13.2 of the Regulation, this decision may be appealed to the full Board by requesting an appeal in writing to the Board within twenty (20) days of the date of mailing or issuance of this decision.

Any appeal shall give the specific reasons why a party believes that the findings of the hearing officer are incorrect, based on testimony or evidence received at the hearing. No new testimony or evidence will be accepted. The Board does not rehear any issues but can only accept argument as to why a wrong decision may have been reached in this case. If an appeal is filed, the parties will be notified of the date, time, and location of the Board's meeting. Either party may appear before the Board to give oral argument. Failure of either party to appear before the Board may result in an adverse decision against the party. If no appeal is filed, payment of the administrative penalties is due within 20 days as stated above.

CERTIFICATION

I hereby certify on this 24th day of October, 2024 that a copy of the within Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail, return receipt requested to Mr. Ernest Ricci at 180 Plain Road, North Kingstown, R.I. 02852, and PO Box 102, East Greenwich, R.I. 02818, and c/o Premier Home Restoration LLC, 5775 Post Road. #102, East Greenwich, R.I. 02818 and by electronic delivery to the Respondent at ernie.premier@gmail.com and by electronic delivery to James Cambio, Building Code Commissioner, Donna Costantino, Associate Director, Matthew Lambert, Principal State Building Code Officer, and Megan Mihara, Contractors' Registration and Licensing Board, 560 Jefferson Boulevard, Suite 200, Warwick, R.I. 02886, and Sara Tindall-Woodman, Esquire, and Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I.

Therese J. Kaplan