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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:

Glendon Goldsboro Jr. d/b/a
Starr Construction LLC,

Respondent.

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V-6888

DECISION

I. INTRODUCTION

This matter arose pursuant to a Notice of Hearing (“Notice”) issued on July 16, 2024 by the Department of Business Regulation Contractors’ Registration and Licensing Board (“Department” or “Board”) to Glendon Goldsboro Jr. d/b/a Starr Construction LLC (“Respondent”). At the time of the allegations in this matter, the Respondent was registered as a contractor pursuant to R.I. Gen. Laws § 5-61-1 *et seq.* but his registration has now expired. A hearing was scheduled for August 28, 2024 at which time the Respondent did not appear. Pursuant to R.I. Gen. Law § 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, the Notice was sent to the Respondent’s last known address by first class and certified mail and by email.¹ Since the

¹ The Respondent was notified of the prehearing conference date of August 14, 2024 at which time the Respondent did not appear. Department’s Exhibit One (1) (Notice sent by first class and certified mail to addresses for the Respondent; the certified mail was returned but the first class mail was not returned). The Respondent did not appear at the prehearing conference, so a letter was sent to the Respondent by first class and certified mail notifying the Respondent of the August 28, 2024 hearing date. Department’s Exhibit Two (2) (letter dated August 14, 2024 advising

Respondent was adequately noticed of hearing, a hearing was held before the undersigned on August 28, 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.

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 Respondent violated R.I. Gen. Laws § 5-65-10 and/or R.I. Gen. Laws § 5-65-3.

IV. MATERIAL FACTS

Based on the pleadings and exhibits entered at hearing, it is undisputed as follows: The Respondent entered into a contract on or about July 28, 2023 with a homeowner in Johnston to perform work at the homeowner's house. The work to be performed was the kind of work that requires registration as a contractor. At the time of said contract, the Respondent was registered as

Respondent of date of hearing sent by first class and certified mail to the Respondent; United States Post Office tracking sheets showing certified mail delivery was attempted, and the other address was unknown). One of the Respondent's addresses used by the Department included the address the Respondent provided in his request for an appeal. Department's Exhibit Four (4) (Respondent's request to appeal notice of intent to impose civil penalty). One of the addresses used by the Department was the address on record with the Department in the Respondent's registration record. Department's Exhibit Eight (8) (Respondent's registration record). The Notice was also sent to the Respondent's email address on record with the Department. Department's Exhibit Eight (8).

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.

a contractor. On November 16, 2023, the homeowner filed a complaint with the Board regarding the Respondent. The Board's inspection determined the Respondent failed to complete the work for which he was hired and had not refunded the money paid. The inspection found the Respondent hired a non-registered subcontractor and failed to include a mechanic's lien in the contract. The complainant sued the Respondent in District Court and obtained a judgment for money owed. The Board sent the Respondent a Notice of Intent to Assess Civil Penalty and Opportunity for Hearing for hiring a non-registered subcontractor and for failing to provide a mechanic's lien in the contract, and the Respondent requested a hearing. Department's Exhibits One (1) (Notice); (3) (District Court judgment showing that Respondent agreed to pay money owed to said complainant regarding the work performed); Four (4) (request for hearing); Five (5) (Notice of Intent); (Six) (homeowner complaint); Seven (7) (investigative report); and Eight (8) (registration record).

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 § 5-65-10 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.

(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.

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

*** Duties of contractors ***

(j) A contractor including, but not limited to, a general contractor, shall not hire any subcontractor or other contractor to work on a structure unless the contractor is registered under this chapter or exempt from registration under the provisions of § 5-65-2.

(o) All work performed, including labor and materials, in excess of one thousand dollars (\$1,000) shall be accompanied by a contract in writing. Contracts required pursuant to this subsection shall include consumer disclosures and information required pursuant to regulations promulgated by the board and the following notice by the contractor to the homeowner:

NOTICE OF POSSIBLE MECHANIC'S LIEN
[the required notice is then set forth in the statute]

D. Whether the Respondent violated R.I. Gen. Laws § 5-65-3 and R.I. Gen. Laws § 5-65-10

It was undisputed that the Respondent arranged to perform work for the complainant and the work required registration as a contractor, and the Respondent hired an unregistered sub-contractor to perform the work and failed to include a mechanic's lien on the contract for said work. R.I. Gen. Laws § 5-65-10(c) provides for administrative penalties up to \$5,000 for first offences. There was no evidence that the Respondent's violations were not first offences.

The Respondent violated R.I. Gen. Laws § 5-65-3(j) and (o) and R.I. Gen. Laws § 5-65-10(a)(10)(1) by hiring an unregistered sub-contractor to perform the work and by failing to include a mechanic's lien in the contract for said work. The Board requested the imposition of an administrative penalty of \$250.00 for each violation for a total penalty of \$500.00. Pursuant to R.I. Gen. Laws § 5-65-10(c), an administrative penalty of \$500.00 is imposed for Respondent's violations of R.I. Gen. Laws § 5-65-3(j) and (o) and R.I. Gen. Laws § 5-65-10(a)(10)(1).

VI. FINDINGS OF FACT

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

1. The homeowner filed a complaint on or about November 16, 2023 with the Board regarding the Respondent not completing a job for which he was hired.

2. A hearing was scheduled for August 28, 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.

3. The Respondent entered into an agreement on or about July 28, 2023 with said homeowner to perform work. The work arranged to be performed required registration as a contractor.

4. The Respondent hired an unregistered contractor to perform work and failed to include the mechanic's lien notice in said contract.

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

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


VII. CONCLUSIONS OF LAW

Based on the foregoing, pursuant to R.I. Gen. Laws § 5-65-10(a)(10), an administrative penalty of \$500.00 is imposed for Respondent's violation of R.I. Gen. Laws § 5-65-3(j) and (o) and R.I. Gen. Laws § 5-65-10(a)(10)(1).

The administrative penalty is due 20 days from the execution of this decision.⁴

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

Entered: September 10, 2024


Catherine R. Warren
Hearing Officer

⁴ Payment should be made to Contractors' Registration and Licensing Board at the above address.

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 Contractors' Registration and Licensing 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 10th day of September, 2024 that a copy of the within Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail and by electronic delivery to Glendon Goldsboro, Jr., 75 Ballston Avenue, Pawtucket, R.I. 02861; and to PO Box 17644, Smithfield, R.I. 02917; and to 28 Elmgrove Avenue, Smithfield, R.I. 02917 and to starconstructionri@gmail.com and by electronic delivery to James Cambio, Building Code Commissioner, Donna Costantino, Associate Director, Anthony Whitfield, Christina Santos, and Megan Mihara, Contractors' Registration and Licensing Board, 560 Jefferson Boulevard, Suite 200, Warwick, R.I. 02886, and Kallie Longval, Esquire, and Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I.