

Perry St. 91 7199 9991 7036 4594 4707
Wood Ave. 91 7199 9991 7036 4594 4714

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: :
: :
Shaun Marrow d/b/a Legendary Concrete, : 24CRLB007
: :
Respondent. :
: :

DECISION

I. INTRODUCTION

This matter arose pursuant to an Emergency Order to Show Cause why Respondent Should not be Ordered to Immediately Cease and Desist; Notice of Hearing; and Appointment of Hearing Officer (“Notice”) issued on December 5, 2024 by the Department of Business Regulation Contractors’ Registration and Licensing Board (“Department” or “Board”) to Shaun Marrow d/b/a Legendary Concrete (“Respondent”). The Respondent had previously been registered as a contractor pursuant to R.I. Gen. Laws § 5-61-1 *et seq.* but said registration expired April 14, 2023. However, the Board still has jurisdiction in disciplinary proceedings over the Respondent pursuant to R.I. Gen. Laws § 5-65-10(a)(10).¹ A hearing was scheduled for December 19, 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, the Notice was sent to the Respondent’s last known addresses by first class

¹ R.I. Gen. Laws § 5-65-10(a)(10) provides in part, “[t]he board may take disciplinary action against a contractor who performed work, or arranged to perform work, while the registration was suspended, invalidated, or revoked.”

and certified mail.² Since the Respondent was adequately noticed of hearing, a remote hearing was held before the undersigned on December 19, 2024.³ Additionally, § 1.17 of the Regulation⁴ 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 the Respondent violated R.I. Gen. Laws § 5-65-10 and/or R.I. Gen. Laws § 5-65-3, and if so, what should be the sanction(s).

IV. MATERIAL FACTS AND TESTIMONY

Matthew Lambert, inspector, testified on behalf of the Department. He testified the Respondent's registration expired, and there was an outstanding Board action against the Respondent for working as a contractor while unregistered. Department's Exhibit Three (3) (notice of hearing dated September 24, 2024 in case no. 23-185 issued to Respondent). He testified that

² The Notice was sent to the Respondent's last known addresses and was also emailed to the Respondent. Department's Exhibits One (1) (Notice); Two (2) (print out from the tracking web site for the United States Post Office showing delivery of one of the certified mail Notices); Five (5) (Respondent's registration with address); and 13 (email from Respondent to Department using email address to which Notice sent).

³ The undersigned hearing officer heard this matter pursuant to R.I. Gen. Laws § 5-65-12.

⁴ 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.

while at work he overheard a conversation between a Scituate homeowner and a staff architect discussing whether a building permit was needed for the homeowner's project. He testified he overheard the Respondent's name so he spoke to the homeowner and ascertained the homeowner was thinking of hiring the Respondent. He testified the homeowner provided him with his text and voice mail communications with the Respondent. He testified the Respondent told the homeowner that he did not need a permit for a concrete basement pour which is not true. He testified the homeowner requested from the Respondent proof of his current registration, and the Respondent texted the homeowner a photograph of a false document to try make it look like the Board had issued him a new registration. He testified the Respondent's false document referenced a new document from the Board's licensing portal which was actually proof of the Respondent's suspended registration. Department's Exhibits One (1) (Notice); Nine (9) (Lambert's investigative memorandum dated December 3, 2024); Ten (10) (voice mail message from homeowner to Board about the permit); 11 (texts between homeowner and Respondent with Respondent's proposed contract for work and Respondent stating do not need a permit to pour concrete and homeowner's questions about registration); and 12 (Respondent's false registration sent homeowner).

The Respondent did not appear at hearing so did not dispute any testimony or exhibits. In prior correspondence with the Department, the Respondent denied that he was acting as an unregistered contractor because he claimed he was subbing out the work. Department's Exhibit 13 (email from Respondent to Department).

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. R.I. 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.

(3) That the registrant, licensee, or applicant has engaged in conduct as a contractor that is dishonest or fraudulent that the board or office finds injurious to the welfare of the public.

(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. ***

(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.

(b) Subject to providing notice and an opportunity for a hearing, in addition to all other remedies, when the board or office has reason to believe that a person has engaged in, or is engaging in, any act, practice, or transaction that violates the provisions of this chapter or the regulations promulgated thereunder, the board or office may order such person to cease and desist from the violation or request the attorney general to apply to the court for an injunction restraining the person from violating the provisions of this chapter. ***

(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. *** Fines for violations may be imposed against registered contractors, as well as those persons required to be registered, by the board.

(2) For each subsequent violation of a particular subsection of this chapter or of a rule or regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be imposed. ***

(k) When upon investigation a complaint reveals: serious code infractions; unsatisfied mechanic's liens; abandonment of a job for a substantial period of time without apparent cause; or any other conduct detrimental to the public, the board can double the fines.

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

*** 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. ***

D. Whether the Respondent violated R.I. Gen. Laws § 5-65-10 and if so, what Should be the Sanction

It is undisputed the Respondent is not registered as a contractor in Rhode Island. It is undisputed the Respondent arranged to perform work that required registration as a contractor

while not registered as a contractor. It was undisputed the Respondent provided a false document to a homeowner purporting to show the Respondent was a registered contractor when he was not. For those violations, the Board requested that a cease and desist order be entered against the Respondent, administrative penalties be imposed, and a bar on reinstatement be imposed.

The Respondent already had been sent a notice of hearing in September of 2024 alleging that he engaged in work that required registration as a contractor. Department's Exhibit Three (3). He engaged in settlement discussions with the Department regarding these allegations. Department's Exhibit Nine (9). However, prior to resolving that matter, the Department discovered the violations at issue here. Department's Exhibits One (1) (Notice) and Nine (9).

The Respondent claimed he was going to subcontract out the work; however, he was arranging to perform the work, offered to perform work, and submitted a bid to do the work. Department's Exhibit 11. Such actions required that he be registered as a contractor which he was not. Thus, the Respondent was arranging to perform work in violation of R.I. Gen. Laws § 5-65-10(a)(1) and submitted a bid to do work in violation of R.I. Gen. Laws § 5-65-3. A violation of R.I. Gen. Laws § 5-65-3 is a violation of R.I. Gen. Laws § 5-65-10(a)(1). The Respondent also provided incorrect information about a permit to a homeowner. Finally, he not only told a homeowner that he was registered when he was not, he falsified a document purporting to show a valid registration. There has been no final order in the September, 2024 matter.⁵ The Respondent's actions in this matter are extremely troubling and egregious. He falsified a document purporting to show a valid registration. He acted as an unregistered contractor while trying to settle another

⁵ The Final Order for Violation V-6844 appears to be the basis for the September, 2024 notice of hearing. Department's Exhibit Three (3) (September, 2024 notice); Seven (7) (notice of intent); and Eight (8) (final order). The violation delineated in the final order is the one set forth in the notice. The notice of intent and the final order are both referenced in the September, 2024 notice of hearing. The final order suspended the Respondent's contractor registration as a hearing was not requested.

matter with the Department on the same issue. He misled a homeowner about his registration and the need for a permit.

Administrative penalties of up to \$5,000 are authorized by statute for first offenses and up to \$10,000 for subsequent offenses. R.I. Gen. Laws § 5-65-10(k) allow penalties to be doubled for conduct detrimental to the public. The Respondent's forwarding of a false document to the homeowner purporting to show a valid registration is a violation of R.I. Gen. Laws § 5-65-10(a)(3). Such an action is detrimental to the public as the public relies on information about registration to choose a contractor. Thus, the Respondent shall pay an administrative penalty of \$10,000 representing a \$5,000 administrative penalty that is doubled pursuant to R.I. Gen. Laws § 5-65-10(k). The Respondent shall also pay an administrative penalty of \$10,000 for his violations of R.I. Gen. Laws § 5-65-10(a)(15) (misrepresented registration status) and R.I. Gen. Laws § 5-65-3(a) and R.I. Gen. Laws § 5-65-10(a)(1) (arranging work while unregistered) (\$5,000 penalty each).

Pursuant to R.I. Gen. Laws § 5-65-10(b), the Respondent is ordered to cease and desist from violating R.I. Gen. Laws § 5-65-1 *et seq.* so that he shall not engage in work that requires registration under said statute.

VI. FINDINGS OF FACT

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

1. The Notice was issued on December 5, 2024 to the Respondent.
2. A hearing was scheduled for December 19, 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 is not registered as a contractor and the work for which he contracted to perform, arranged to perform, and submitted a bid to perform required registration as a contractor.

4. The Respondent provided a homeowner with a false document purporting to show he was registered when he was not.

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(b) the Respondent shall pay a total administrative penalty of \$20,000.


Pursuant to R.I. Gen. Laws § 5-65-10(b), the Respondent is ordered to cease and desist from violating R.I. Gen. Laws § 5-65-1 *et seq.* so that he shall not engage in work that requires registration under said statute.

Pursuant to R.I. Gen. Laws § 5-65-10(a), the Respondent may not request reinstatement of his registration **until he complies with the terms of this decision.** A decision on such a request is within the discretion of the Board.

The administrative penalty is due 20 days from the execution of this decision.⁶

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

Entered: January 9, 2025


Catherine R. Warren
Hearing Officer

⁶ 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 9th day of January, 2025 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. Shaun Marrow
75 Perry Street
Barrington, R.I. 02809

Legendary Concrete LLC
Attn: Registered Agents Inc.
47 Wood Avenue, Suite 2
Barrington, R.I. 02806

and by electronic delivery to:

sjm@legendaryconcreteri.com (Respondent)
legendaryconcrete@yahoo.com (Respondent)
sjm123@yahoo.com (Respondent)
James Cambio, Building Code Commissioner (james.cambio@dbr.ri.gov)
Donna Costantino, Associate Director (donna.constantino@dbr.ri.gov)
Matthew Lambert, Principal State Building Code Officer (matthew.lambert@dbr.ri.gov)
Christina Santos, Administrator Management (christina.santos@dbr.ri.gov)
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Theresa L. Kaplan