

**BRIAN SANDOVAL**  
Governor

# State Of Nevada



Reply To:

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Kevin Burke  
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Joe Hernandez  
Kent Lay  
Jan B. Leggett  
Guy M. Wells

## STATE CONTRACTORS BOARD

August 24, 2018

The Honorable Brian Sandoval  
Governor of Nevada  
State Capitol  
Carson City, Nevada 89701

Dear Governor Sandoval:

On behalf of the Nevada State Contractors Board, I am pleased to enclose the FY 2016-17 to FY 2017-18 report required by the provisions of Nevada Revised Statutes (NRS) 624.355.

This summary report presents the findings of our review regarding common trends in complaints and potential difficulties in the regulation of contractors and the protection of the public. We have also included our legislative bill draft requests that have been submitted and approved for the 2019 Legislative Session.

On behalf of the Board, thank you for the opportunity to serve the citizens of Nevada. We take pride in our accomplishments and will continue to strive for improvement in the years ahead.

If you have any questions concerning the report or any other matter, I can be reached at (702) 486-1111 or [mgrein@nscb.state.nv.us](mailto:mgrein@nscb.state.nv.us).

Sincerely,

Margi Grein  
Executive Officer

C: Rick Combs, Director  
Legislative Counsel Bureau

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## STATE CONTRACTORS BOARD

### **NEVADA STATE CONTRACTORS BOARD** **REPORT IN COMPLIANCE WITH NRS 624.355**

The Nevada State Contractors Board (Board) has the responsibility of enforcing Chapter 624 of Nevada Revised Statutes. The Statutory Mission Statement declares that the provisions of Chapter 624 relating to the discipline of licensees are intended to promote public confidence and trust in the competence and integrity of licensees and to protect the health, safety and welfare of the public. The Board is committed to fulfilling its statutory responsibility and adopted a mission statement to promote quality construction by Nevada licensed contractors through a regulatory licensing system designed to protect the health, welfare and safety of the public.

#### **INVESTIGATIONS DEPARTMENT OVERVIEW**

The Nevada State Contractors Board is authorized to investigate complaints against licensees and non-licensees acting as contractors. The majority of complaints against licensed contractors received by the Board are from owners of residential properties, although the Board also investigates complaints received from other contractors and suppliers. Unlicensed contracting activity complaints are received from homeowners and properly licensed contractors.

Upon receipt of a complaint against a licensed contractor, the Board's Investigations Department will initiate an investigation. Validated workmanship complaints against a licensee may result in the issuance of a Notice to Correct by the Board, allowing the licensee an opportunity to remedy the concerns. Failure to comply with the Board's orders may result in disciplinary action. Other cases that do not fall within the Board's jurisdiction are forwarded to a state or local agency, or private entity, when appropriate to effectively resolve the matter.

All investigative complaint statistics for the reporting period (FY 2016-17 to FY 2017-18) are combined below. The pages following provide an overview of each fiscal year figures.

<b>FY 2016-17 to FY 2017-18</b>	
<b>INVESTIGATIONS COMPLAINT TOTALS</b>	
Open Complaints	5,691
Closed Complaints	5,051
Money Owing	397
Workmanship	1,668
Industrial Regulation	1,008
Criminal Affidavits Filed	519
Felony Conviction	39
Gross Misdemeanor	30
Misdemeanor	278
Administrative Citations	45
Cease and Desist Issued	586
Criminal Fraud	43

## **COMPLIANCE INVESTIGATIONS**

Compliance investigations encompass money owing and workmanship complaints; unlawful advertising; fraudulent or deceitful acts; misuse of license; working outside the scope of the license; bidding over the monetary limit of the license; industry regulation violations of NRS 624;. The resolution of homeowner complaints regarding workmanship is a priority for the Board.

	FY 2016-17	FY 2017-18	TOTAL
Opened	1,529	1,702	3,231
Closed	1,616	1,430	3,046
*Money Owing	205	192	397
*Workmanship	745	923	1,668
*Industry Reg.	623	385	1,008
<i>*Represents total alleged violations made through the complaint process.</i>			
<b>CONSTRUCTION DEFECT OPINION OR DISPUTES</b>			
	FY 2016-17	FY 2017-18	TOTAL
Opened	3	0	3
Closed	5	0	5
Opinion Rendered	4	0	4
Beyond Statute of Limitations	1	0	1

## **CRIMINAL COMPLAINTS – UNLICENSED CONTRACTORS**

The investigation of unlicensed contractor complaints is also a major priority of the Board. As construction activity increases in Nevada, the number of unlicensed practice cases also increases. Complaints made against unlicensed individuals, or complaints involving criminal activity that are validated by the Investigations Department may be submitted to district attorneys who may prosecute such cases.

	FY 2016-17	FY 2017-18	TOTAL
Opened	1,145	1,315	2,460
Closed	1,021	984	2,005
Criminal Affidavits Filed	332	187	519
Felony Conv.	35	4	39
Gross Misdemeanor	19	11	30
Misdemeanor	171	107	278
Administrative Citations	19	26	45
Cease and Desist Issued	304	282	586
Criminal Fraud	31	12	43

## **DISCIPLINARY HEARINGS**

NRS 233B and NAC 624.6975 through 624.7296 provide established procedures for the Board to make disciplinary decisions, including the separation of the investigative process from decision-making, imposing penalties based on the specific laws or rules violated, and handling of contested investigative cases in addition to allowing a disciplined licensee to contest the Board's disciplinary decisions. Administrative Law Judges make disciplinary decisions that include Findings of Fact, Conclusions of Law and an Order based on the investigative information presented, as well as the laws and rules governing violations and penalties.

	FY 2016-17	FY 2017-18	TOTAL
Hearings	94	131	225

Licenses Revoked	59	40	99
Licenses Suspended	20	20	40
Investigative Cost	\$136,092	\$151,887	\$287,979
Fines	\$196,400	\$186,300	\$382,700

### **ADMINISTRATIVE CITATIONS**

The Board can resolve disputes through a written administrative citation pursuant to NRS 624.341, NRS 624.345, NRS 624.361, and NAC 624.725 – 624.72518. An administrative citation is a voluntary binding agreement between the Board and a licensee or person ("party"). However, if the Board and a party are unable to come to an agreement, the party has the right to accept or contest the Board's citation pursuant to NRS 624.351. Contested citations are referred to an administrative hearing.

In determining the amount of an administrative fine to be imposed pursuant to subsection 1 of NAC 624.7251, the Board or its designee will consider the gravity of the violation, the good faith of the licensee, and any history of previous violations.

	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>TOTAL</b>
Citations Issued	227	170	397
Fines	\$241,250	\$217,600	\$458,850
Investigative Cost	\$78,136	\$53,812	\$131,948

### **RESIDENTIAL RECOVERY FUND**

The Residential Recovery Fund was established in 1999 with the intent to provide owners of single-family residences, who incur damages from work performed by a licensed contractor, heightened protections by affording them an avenue of financial recourse up to four years from the date the work was performed to recoup losses up to \$35,000 (not to exceed \$400,000 per claims against a single contractor). The Recovery Fund also allows individuals who obtain a Judgment from the Court to file a claim for recovery within two years of the Judgment being issued. Since inception, the Residential Recovery Fund has provided over \$11 million dollars in relief to injured homeowners.

During the reporting period, the Board's Residential Recovery Fund Committee heard 134 cases affiliated with a single contractor, Summerlin Energy, LLC, a solar contractor who during the time of being licensed was found responsible for taking payments from homeowners and performing incomplete or no work. The maximum payout of \$400,000 was awarded collectively among the damaged homeowners.

The Residential Recovery Fund has proven to be a valuable protection and recourse option for homeowners harmed financially by licensed contractors. Individuals who have received recovery include seniors who were taken advantage of, individuals whose projects were completely abandoned after making payment to the contractor, as well as individuals who experiences workmanship issues within the four year statute of limitations after their contractor went out of business and could not remedy the situation.

	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>TOTAL</b>
Claims Received	178	42	220
Claims Awarded	173	35	208
Total amount Awarded	\$755,812	\$403,942	\$1,159,754
Average Claim Awarded	\$4,369	\$11,541	\$15,910

## **FINGERPRINT BACKGROUND CHECK INITIATIVE**

Pursuant to NRS 624.265(2), the Nevada State Contractors Board conducts fingerprint checks on all applicants for licensure. Once fingerprints are submitted, they are forwarded to the Nevada Department of Public Safety and then the FBI for a criminal history report. Once the Board receives the report, the Investigations Department reviews any convictions and requests any required supporting documentation.

Upon receipt and review of the requested documentation, the Director of Investigations may recommend an informal interview with the applicant regarding the criminal convictions, which is not recorded and does not serve as a sworn statement of the applicant. Following the interview, the Director of Investigations provides a written report documenting the interview and providing a recommendation of approval or denial. The Board evaluates each applicant on a case-by-case basis, to ensure the safety of the public prior to licensing.

Between FY 2011-12 and FY 2017-18, the Board has noticed an average rate of approximately 27% of applicants having a reportable criminal history based on the initial background check. The fiscal years during the reporting period realized an average of 25% of applicant background checks uncovered a criminal history. Of the 1,610 background checks that disclosed a criminal history, only 474 or 29% of applicants in total for the reporting period were investigated further by the Board.

	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>TOTAL</b>
Fingerprint Cards Submitted	3,139	3,202	6,341
Total Fingerprints returned with criminal histories	799	811	1,610
Total fingerprints returned w/o criminal histories	2,340	2,391	4,731
Applicants that failed to disclose a criminal history	127	84	211
Background Investigations Initiated	253	221	474

## **NSCB FRAUD UNIT AIDS LICENSEES & PUBLIC**

In FY 2015-16, the Fraud Unit was created to investigate construction fraud cases pursuant to NRS 624.165. To date, the Fraud Unit has been successful in the investigation and submission of significant construction fraud cases to the respective prosecutorial authority. These complex cases often require significant investigative time and effort. The Board's Fraud Unit is often times the most effective option available for consumers harmed by these types of activities. The Fraud Unit has come to the aid of the public and licensed contractors in forwarding their case to the District Attorney for prosecution and requested restitution.

During the reporting period, many of the criminal fraud cases pertained to allegations of theft, diversion of funds, embezzlement, obtaining money under false pretenses, contracting without a license, and fraud. One of the convictions received based on a case submitted to the District Attorney resulted in a conviction of felony embezzlement and theft, in which the suspect was sentenced to 3-8 years in Nevada State prison, and required to pay restitution of over \$406,000 to the victim. This investigation revealed a complex scheme to embezzle hundreds of thousands of dollars from the suspect's employer, a licensed general contractor in Nevada, using fraudulent materials, receipts, fraudulent work invoices, and fraudulent permit receipts.



## **PROTECTING NEVADA'S SENIORS**

The Board takes seriously any crime or unscrupulous activity against a senior citizen, and will advocate for the highest punishment possible when evidence collected validates the concerns raised. Although the Board investigates approximately 3,000 cases annually, crimes against the elderly often stand out among the rest because of the vulnerable circumstances that exist in such cases and the unfortunate efforts made to take advantage of this population.

Highlighted below are only a few examples of cases investigated by the Board during the reporting period:

- An 89-year-old widow (homeowner) contracted with a licensed contractor to repair damages to her home, which included roofing, drywall, and ceiling repair, among other items, after receiving approximately \$53,000 from her homeowner's insurance policy. Work commenced on the project from July to September 2017, during which time the homeowner paid the contractor \$52,659.55 over the course of five payments. The homeowner filed a workmanship complaint with the Board on December 21, 2017. A jobsite meeting was conducted on January 3, 2018 at which time the Board's investigator validated less than 50% of the contracted work was completed and there were 28 items that needed to be corrected, including the repair of the roof. During the jobsite visit, the homeowner advised the investigator that she was forced to sign the Certificate of Completion by a representative of the contractor, and that the representative threatened to contact the authorities and have her removed from her home and have it condemned if she did not sign the document. Due to these threats and fear for her safety, the homeowner would not allow the contractor's representatives back on her property. The contractor represented that he was unaware of any issues concerning this project until February 2018, and that he thought the project was completed back in September. Following the Board's investigation and disciplinary hearing, which considered the violations noted with this homeowner as well as another harmed person, the contractor was fined \$19,800, ordered to pay investigative costs of \$8,254, and make full restitution to the other harmed individual within 30 days of the hearing or face revocation of its licenses. Most importantly, the Board's intervention in this matter led to a settlement agreement in which the contractor provided the homeowner with full restitution in the form of a cashier's check for \$57,000. To date, the Board has forwarded this case to the Clark County District Attorney's Office for prosecution of alleged violations of engaging in business without a license (NRS 624.700); obtaining money under false pretense (NRS 205.380) with the enhancement of NRS 193.167 (victim being over the age of 60 years); and unlawful advertising (NRS 624.720).
- An 84-year-old woman with health issues (homeowner) filed a complaint against an unlicensed contractor in December of 2016 after hiring the individual to construct a swimming pool and spa at her residence in September 2016 for a total contract value of \$40,000; such work would require an A-10 contractor's license. The homeowner paid the unlicensed contractor a \$20,000 deposit. The pool construction began in October 2016, and during the same month, the homeowner was asked to provide two additional checks in the amount of \$10,000 each, which she did. Following the last payment, which completed the contract value owed, the homeowner's project was abandoned by the unlicensed contractor. The only work performed was excavation, rebar, plumbing, and the purchasing of the pool equipment was completed – 30% of the contracted scope of work. The Board has forwarded this case to the Clark County District Attorney's Office for prosecution of alleged violations of engaging in business without a license (NRS 624.700). NRS 193.167 provides specific limitations of when additional penalties can be applied for crimes committed against a person 60 years of age or older. Although the Board sought prosecution in this matter, the facts of the case did not meet the requirements outlined in NRS 193.167.
- Recently, the Board received an unlicensed contractor complaint from an elderly woman (homeowner). At the time the original contract was signed, the homeowner had hired the unlicensed contractor to remove old landscape and install new rock, flagstones, and plants for a total value of \$3,100. The homeowner later upgraded the type of material to be used, therefore paying the unlicensed entity an additional \$2,400. A couple weeks following the last transaction, the unlicensed entity solicited to perform a complete install of a water treatment system in her residence for another \$4,200. The homeowner has paid a total of \$8,200 to the unlicensed contractor; however, the only work completed at her residence was the 'skinning' of one six foot tall palm tree and the removal of approximately four

truckloads of rocks and debris. This amounts to approximately 3% of the total contracted work to be performed that has been completed. To date, the Board has forwarded this case to the Clark County District Attorney's Office for prosecution of alleged violations of engaging in business without a license (NRS 624.700); obtaining money under false pretense (NRS 205.380) with the enhancement of NRS 193.167 (victim being over the age of 60 years); and unlawful advertising (NRS 624.720).

### **COMBATING UNLICENSED CONSTRUCTION ACTIVITIES**

Board investigators conduct regular sting operations in northern and southern Nevada. These operations require Board investigators to partner with local law enforcement and identify unlicensed contractors operating illegally in Nevada. These activities have negative impacts on the public's health, safety, and welfare. While the operations result in issuance of criminal citations for alleged violations noticed during a sting operation, the Board's intent is to educate unlicensed individuals about Nevada contracting laws and encourage them to become licensed. As such, the Board provides first-time offenders, where insufficient or no material injury exists, a choice to file an application for licensure with the Board, at which time they will be issued an administrative citation in lieu of a criminal citation that may have resulted in prosecution for the alleged violations.

Because the severity of unlicensed contracting affects homeowners across the nation, the Contractors Board participated in an annual effort coordinated by the National Association of State Contracting Licensing Agencies (NASCLA), in which contractors boards from Arizona, California, Florida, Mississippi, Nevada, Oregon, Rhode Island, Texas, Utah and Washington, scheduled stings and proactive enforcement activities to identify and prosecute suspected unlicensed contractors. This month-long initiative led to the opening of 70 investigations into unlicensed practices by the Nevada Contractors Board, resulting in the issuance of 20 criminal citations, 16 Cease and Desist Orders, one administrative citation, and submission of 11 cases to county district attorneys' offices, with citations and/or criminal proceedings pending in several additional cases.

Included in this national effort was an annual 'Border Blitz' with the California Contractors State License Board, which seeks to identify unlicensed persons crossing over between the neighboring states placing homeowners at added risk of injury, investigating complaints received from the public, conducting undercover sting operations in southern and northern Nevada, and performing neighborhood sweeps for people engaged in home repair and other construction projects without proper licensure.

The Board also works proactively to combat unlicensed contracting by conducting sweeps of Nevada's communities statewide. This practice allows Board investigators to confirm if active construction projects are using properly licensed Nevada contractors as well as provide ongoing education and awareness about licensure requirements when violations are noticed. The Board has expanded its outreach and presence in rural Nevada by sending investigators to the various areas and working closely with the respective building departments.

### **ADDITIONAL COLLABORATIVE AND OUTREACH INITIATIVES**

The Board continues to utilize its public outreach and educational programs, having implemented a Senior Awareness Program, Home Improvement Forum, as well as customized presentations to a number of city and county contracts personnel, community manager groups, realtors, various clubs and organizations, and homeowner associations. These efforts are furthered through enhanced media relations, including print, television, radio, and social media opportunities, to convey important messages and tips to the public, publicity of unlicensed contractor sting events, promotion of the Board's Residential Recovery Fund, and overall awareness of the free services the Board offers to homeowners in need of assistance with a minor or major home construction project.

Additionally, the Contractors Board continues to coordinate and host annual Western States Construction Enforcement Forums, which are attended by construction enforcement representatives from six western

state contractor licensing agencies. The forums provide a collaborative opportunity for board representatives to share insightful information about emerging criminal trends, investigations strategies, policies, and resources, as well as encourage information sharing as it relates to traveling suspects alleged of criminal activities. These forums have been instrumental in strengthening the Board's communication with neighboring states on cases involving fast-moving "travelers" who scam unsuspecting homeowners out of their money by performing little or no work and quickly leaving town; as well as informing neighboring states of licensed contractor violations in egregious cases, such as Summerlin Energy, LLC, who was found to be operating similar schemes in other states. Having a more direct relationship and collaborative approach aims to protect the public's health, safety, and interest by way of quicker and more efficient communication and action taken.

### **IDENTIFIED ISSUES – TRENDS**

The continued growth of Nevada's economy is fueling both residential and commercial projects across the State of Nevada. Some of the current challenges being experienced as a result of the increased demand include a shortage of qualified workers for large construction projects, and homeowner difficulties in hiring contractors to perform smaller residential work.

As with any construction or economic boom, the Contractors Board is starting to notice an increase in the number of workmanship complaints being filed by consumers. Consequently, an increase in workmanship complaints often results in an increase in claims filed with the Residential Recovery Fund. Although not yet a significant trend, the Board is beginning to notice a slight increase in the number of workmanship complaints being filed against a single contractor. In many of these cases, it is not uncommon for the contractor's license to become revoked through the disciplinary process as a result of abandonment or default (failure to respond to the Board's orders or appear at the disciplinary hearing); therefore, providing an opportunity for eligible homeowners to file claims with the Recovery Fund. As noticed in the prior Summerlin Energy case, the Board could be presented with similar situations of reaching the maximum payout per contractor of \$400,000 in the future. The Board will continue to keep a close eye on the numbers in order to properly forecast future impacts that may be experienced relative to the Board's operations.

Another trend returning to Nevada is an increase in residential solar construction. Although there appears to be a greater sense of awareness and compliance among solar contractors, the Board is beginning to notice more solar complaints being filed relating to workmanship concerns. During the previous solar boom, the Contractors Board was combating a number of out-of-state entities contracting to perform installation work with Nevada homeowners, as well as payments received but little or no work performed. Since passage of the new legislation, the Contractors Board is in communication with Nevada's Public Utilities Commission to receive consumer complaints, and has been proactive in meeting with various state and local representatives to discuss public safety concerns related to solar construction projects. Furthermore, the Board has made efforts to inform the public through a variety of mediums, as well as develop a solar brochure, which is expected to be published in the near future and made available on the Board's website.

Lastly, an ongoing concern for the Nevada State Contractors Board is the inability of the Nevada Office of Public Safety to accept fingerprints from out of state fingerprint vendors, which can be a barrier to licensure for out-of-state applicants unable to travel to Nevada for this purpose. Currently, only fingerprints submitted through Nevada Based Live Scan locations are accepted. This issue was discussed at the May 30, 2018 Occupational Licensing Consortium Nevada Core Team meeting, which included state legislators and other agency representatives. Following presentation of the Board's concerns, it was articulated that members of the committee may seek legislative changes during the 2019 Legislative Session to allow the acceptance of fingerprints from Live Scan locations in other states in an effort to better facilitate and accommodate the contractor licensing processing.



## **NSCB PROPOSED LEGISLATION**

The Board has submitted four bill draft requests for the 2019 Legislative Session. Of those, matters pertaining to enforcement include:

- **BDR 19ABDC1979:** Makes various changes to NRS 624: Amends the statute to allow the Board to delegate authority to hear license application denial appeals to a hearing officer or administrative law judge or panel to schedule hearings more timely; adds criteria whereby license may be reinstated without penalty for active duty members of the military or National Guard if the license expires during the time they are called to active duty; broadens the time frame of work experience to qualify a license beyond the current 1-year limit thus removing a current barrier to licensure; removes the requirement for new licensees to submit a current financial statement to the Board for the first 2 years of licensure, thereby eliminating a burdensome and costly process; removes the 5-year maximum timeframe a license is allowed to be placed on inactive status, thereby allowing the licensee to hold the license in inactive status indefinitely; and, removes language from unlawful advertising statute referencing outdated beeper and pager technologies.
- **BDR 19ABDC1980:** Corrects conflicting language related to the definition of a general contractor/prime contractor by removing "upon which he or she is a prime contractor" from the definition of a general building contractor thereby allowing a general contractor to hire another general contractor on large construction projects.
- **BDR 19ABDC1981:** Amends existing language to increase the individual payout from \$35,000 to \$40,000, and increase the total payout per contractor from \$400,000 to \$750,000 or 20% of the Recovery Fund balance, whichever is less. Based on the Board's review of annual claims received and the amount of damages incurred by homeowners, it was determined the increased amounts would better afford the Board the opportunity to more adequately meet the needs of damaged homeowners, especially in light of past significant cases where damages exceeded the \$400,000 cap. The amendment also removes language specifying the physical addresses of the Board. This will eliminate a future need to seek legislative action should the Board's offices change. Additionally, the Reno address listed is no longer valid.
- **BDR 19ABDC1990:** Conforms the order of a Cease and Desist process to the current process allowed for a written citation. This change provides due process rights of individuals being served with such orders by allowing a Respondent to appeal an order within 15 business days of being served.

The Nevada State Contractors Board remains committed to upholding its public safety mission and serving homeowners and contractors in need of assistance during the course of their construction projects. The Board will continue to work with legislators, policy makers, state agency representatives, and counterparts in contractor licensing boards across the nation, among others, to frequently evaluate its policies and procedures to ensure they align with national best practices and afford all parties involved a fair and unbiased experience throughout the investigation process.