



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

STATE LICENSING BOARD OF CONTRACTORS

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

April 14, 1999

File No. 1-99-0071



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

State Licensing Board of Contractors

March 19, 1999

Report by

A handwritten signature in cursive script, appearing to read "BL", written over a horizontal line.

Inspector General Bill Lynch

Approved by

A handwritten signature in cursive script, appearing to read "M.J. Foster", written over a horizontal line.

Governor M.J. "Mike" Foster, Jr.

File No. 1-99-0071

State Licensing Board for Contractors

State Licensing Board for Contractors member Donald Lambert acted inappropriately when he contacted a representative of an out of state contracting company performing work in Louisiana and pressured him into delaying action against a Louisiana sub-contractor working without the required contractor's license.

The contractor accuses Mr. Lambert of threatening unpleasant consequences if he failed to follow Mr. Lambert's suggestions.

Mr. Lambert denied making any threats.

Background

The State Licensing Board for Contractors consists of fifteen members appointed by the governor. Each appointment made by the governor shall be submitted to the Senate for confirmation. Effective Jan. 1, 1999, the members began serving terms of six years; however, initially four members serve terms of two years, four members serve terms of four years, and four members serve terms of six years. Each member of the Board serves at the pleasure of the governor. There must be at least one Board member from each congressional district in the state. Board members serve without compensation.

The Board is vested with the authority requisite and necessary to carry out the intent of the provisions of the Contractors Licensing Law. The duties and powers of the Board include:

- 1) Granting licenses to qualified contractors.
- 2) Making, amending, or repealing such rules and regulations as it may deem proper.
- 3) Enforcing the contractors license law and rules and regulations adopted.
- 4) Suspending or revoking any license for any cause described in the law, or for any cause prescribed by the rules and regulations, and refusing to grant any license for any cause which would be grounds for revocation or suspension of a license.
- 5) Publishing and distributing information as it deems proper.

The Contractors Licensing Law vests administrative responsibility over the law in the Board and its staff, not the individual Board members.

Section 2160 of the Contractors Licensing Law provides that it shall be unlawful for any contractor to engage in the business of contracting where the value of the project is \$50,000 or more without having qualified as a contractor and been issued a license by the Board.

Donald Lambert, River Ridge, Louisiana, is a long time member of the Board. His most recent appointment to the Board was made in August 1996, and expires in July 2000.

Inappropriate Action

In 1998, Clark Construction Group of Bethesda, Maryland was contracted by Historical Restoration Inc. of New Orleans to renovate two buildings in downtown Shreveport. A condition of the contract required Clark Construction sub-contract with specific contractors to perform some of the renovation work. One of the required contractors was Louisiana Building Maintenance, a New Orleans based company owned by Katonya Breaux. Clark Construction contracted Louisiana Building Maintenance to renovate the exterior of the two buildings for \$139,000.

On Feb. 2, 1999, during a routine inspection conducted by a Board inspector, it was discovered that Ms. Breaux had not obtained the required contractor's license. The inspector notified Clark Construction of the problem and according to Ms. Breaux, she voluntarily removed Louisiana Building Maintenance from the job site.

In correspondence dated Feb. 4, 1999, the Board's staff formally notified Clark Construction and Ms. Breaux they were in apparent violation of La. R.S. 37:2150 – 2173, the Contractors Licensing Law, due to Ms. Breaux's failure to secure the required contractor's license. The correspondence informed Ms. Breaux she may be subject to the applicable penalties which include a fine of up to one thousand dollars plus costs and attorney fees and a civil penalty of not more than three percent of the total contract being performed.

Mr. Watson then informed Ms. Breaux that Clark Construction was going to call her bonding company, Diversified Surety, to make arrangements for another contractor to

complete the work she was contracted to perform. On Feb. 9, 1999, Ms. Breaux called Board member Donald Lambert and asked if he could do something to help her.

Clark Construction

In both a written statement and in an interview Mr. Watson set forth his account of what transpired between him and Mr. Lambert. On Feb. 9, 1999, at 11:23 AM, Mr. Lambert called him regarding Ms. Breaux's situation. Mr. Lambert informed him that he was a member of the State Licensing Board for Contractors. Mr. Lambert told him he did not understand why Clark Construction was being so harsh in telling Ms. Breaux they would have to terminate her contract and report to her bonding company. Mr. Watson informed him the decision to terminate Ms. Breaux's contract was based on Feb. 4, 1999, correspondence from the Board.

The written statement said: "At this time I asked Mr. Lambert who, exactly, he was representing. Mr. Lambert stated that he was representing himself. He continued, saying that if I preferred that he not be involved in this matter he would remove himself. However, he assured me that such a decision would result in unpleasant consequences, not only for Ms. Breaux but also for Clark Construction. Mr. Lambert then reiterated he sat on the State Licensing Board."

At that point Mr. Watson asked Mr. Lambert if his intentions in the conversation were to threaten Clark Construction. Mr. Lambert told Mr. Watson he did not care how he took the conversation. Mr. Lambert reminded Mr. Watson he sat on the State Licensing Board for Contractors and suggested he could make things very difficult for Clark Construction. Mr. Lambert encouraged him not to do anything until he contacted Mr. Watson later that afternoon. Mr. Lambert told Mr. Watson that he would take care of this and Ms. Breaux would finish the project. Mr. Lambert indicated to Mr. Watson it would be smart to refrain from any action until Mr. Watson heard from him that afternoon.

According to Mr. Watson, it was clear from the conversation both Clark Construction and he were being warned of further action if they failed to follow the suggestions of Mr. Lambert.

Mr. Watson advised his attorneys of the incident and he was directed not to speak to Mr. Lambert again and to delay any action for the time being.

Mr. Lambert

In an interview Mr. Lambert said he met Ms. Breaux on one occasion prior to the Clark Construction matter. He stated Ms. Breaux called and told him she had been removed from the job and that Clark Construction was not going to pay her approximately \$32,000 due her. She asked him if he could do something.

Mr. Lambert unsuccessfully attempted to call Mr. Marceaux and Joy Evans, Board staff administrator. He consequently called Mr. Watson on his own.

Mr. Lambert stated to the Inspector General's auditor that he knew time was of the essence so he called Mr. Watson to see if he would delay contacting the bonding company. He told Mr. Watson he was a Board member and they discussed Ms. Breaux's situation including Clark Construction's intention to call her bonding company. Mr. Watson asked Mr. Lambert what he had to do with the matter. Lambert told him "nothing really" and asked about giving more time to work with the Board's staff to see if Ms. Breaux could possibly be allowed to continue working on the job. Mr. Watson told him he was going to contact the bonding company. Mr. Lambert told him he was just trying to work this thing out and informed him Clark Construction had some exposure. Mr. Watson asked Mr. Lambert if he was threatening him. Mr. Lambert told him he could take it like he wanted but he was not threatening him. Mr. Lambert acknowledged to the auditor that this may have sounded threatening to Mr. Watson. Mr. Lambert told Mr. Watson he was a board member and knows the law. He told Mr. Watson that all he was asking was for Clark Construction to hold off a couple of hours to save everyone trouble. Mr. Lambert then explained that if Clark Construction was found guilty of a violation, its license could be suspended and they could be assessed a 3% penalty. Mr. Lambert told Mr. Watson he would call him back.

Mr. Lambert contacted Mr. Marceaux and asked if Ms. Breaux could be allowed back on the job. Mr. Marceaux told him probably not because she had been found working without a license prior to this incident. Mr. Lambert then called for Mr. Watson to tell him Ms. Breaux would not be allowed back on the job, but Mr. Watson never returned his call.

Mr. Lambert denied telling Mr. Watson there would be unpleasant consequences for Ms. Breaux and Clark Construction if Mr. Watson decided he did not wish Mr. Lambert be involved in this matter. He also denied telling Mr. Watson he could make things difficult for Clark Construction.

Ms. Breaux

In an interview Ms. Breaux said she was not aware she was required to have a license because this was her first job over \$50,000. This statement is contradicted by the fact she was notified by the Board on Dec. 3, 1998, that she was in apparent violation of the Contractors License Law on another job because she did not have a license. The letter to Ms. Breaux clearly explains the licensing requirement.

It is clear from the correspondence to Ms. Breaux and her written response, she was aware of and understood she was required to have a license for jobs exceeding \$50,000 and of the consequences if she failed to have the license.

Ms. Breaux verified she called Mr. Lambert on Feb. 9, 1999, seeking help. She stated she had met Mr. Lambert on one previous occasion. Mr. Lambert told her he would call Clark Construction to work something out. She stated Mr. Lambert got Clark Construction to work with her in resolving the problem. Ms. Breaux stated Clark Construction agreed to pay her what was due her and allow the contract to be assigned to A.M.E. Inc., another New Orleans contractor. According to Ms. Breaux, she has not received the money due her.

The Board approved Ms. Breaux's license on Feb. 18, 1999. However, the Board ruled she could not return to the Clark Construction job.

Mr. Marceaux

In both written notes and in an interview Mr. Marceaux said that Mr. Lambert recounted the incident to him, much of which was repeated in his interview with the auditor. Mr. Lambert asked him what could be done to help her. Mr. Marceaux researched the matter and informed Mr. Lambert that Ms. Breaux had previously been involved in working without the required license and had only completed approximately 30% of the contract work with Clark Construction. He told Mr. Lambert that he did not see any way the Board could allow Ms. Breaux back on the job site.

Mr. Lambert told him he was still interested in helping Ms. Breaux collect her money. Mr. Lambert told Mr. Marceaux that as leverage, Clark Construction could be called in for an administrative hearing and charged 3% of the project cost.

Mr. Lambert denied discussing the use of penalties as leverage.

Responsibility

The Board and its staff are responsible for administering the contractors licensing program. Mr. Lambert was not authorized to individually intervene in this matter.

Mr. Marceaux advised the Inspector General's auditor it is the responsibility of the Board staff to resolve matters such as this and it was inappropriate for Mr. Lambert to get involved on his own.

According to Board Chairman Hays Town, Jr., Mr. Lambert should have turned this matter over to the Board staff and Mr. Lambert's actions were inappropriate.

Conclusion:

1. Regardless of the different accounts of the conversation between Mr. Lambert and Mr. Watson, Mr. Lambert's actions in this matter were inappropriate.

Recommendation:

1. Appropriate action should be taken regarding Mr. Lambert's actions.

Responses:

Responses from Mr. Town, Mr. Lambert and Ms. Breaux are attached. Mr. Marceaux and Mr. Watson did not provide a written response.

BL/DM/fs
1-99-0071

DONALD G. LAMBERT CONSULTANT

P. O. Box 1958 • Kenner, Louisiana 70063 • (504) 831-7350
La. License No. 2030

March 15, 1999

Mr Bill Lynch
State Inspector General
State of Louisiana
P.O. Box 94096
State Capitol Annex
Baton Rouge, LA 70804-9095
FAX# (225) 342-6761

FILE NO: 1-99-0071

Dear Mr. Lynch,

I have given your report and the cover letter from you a great deal of thought. This is a serious charge. I appreciate you allowing me to respond. Mr. David Morales and Mr. Gordon Devall were very courteous and professional. Their report is a correct stating of my recollection of facts. I stand on these statements; however, the report makes the wrong conclusion.

It is a fact that both Clark Construction Group, Inc. and Louisiana Building Maintenance are in violation. It is clearly Clarks responsibility to verify it's sub-contractor is a licensed subcontractor (See La.R.S.37:2158, Line 4 and La.R.S.37:2162). It is clearly La. Bldg. Maint. responsibility to obtain a license before quoting on a job over 50K. (SEE ATTACHED)

I have never called anyone in violation since my appointment in 1973. It is our policy to have the staff handle this type of situation. The staff does not have the right to waive the statutes. It is the Board's responsibility and I am only one of 15 members. I believe it should be a level playing field for all contractors.

On February 9, 1999 at approximately 11AM, Ms. Breaux called me in a desperate plea for my help stating Mr. Watson told her he was not paying her and was notifying her surety that he was placing her company in default if she could not correct her default by 2PM. Ms. Breaux faxed me information on Clark. Ms. Breaux was crying almost hysterical because she feared losing her home and business. She is a single parent trying to make a

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Donald G. Lambert

living for herself and her son. Ms. Breaux is an African-American woman owned enterprise from Louisiana, just getting started. Clark Construction is a well established strong independant company from Bethesda, Maryland. I wanted to help Ms. Breaux because my heart and conscience went out to her in her plight.

I tried to reach Mr. Chuck Marceaux, the Executive Director but he was not available. I then asked for Ms. Joy Evans, Administrator, who was also out.

I had a luncheon appointment which could have taken till 2PM. I, with good intentions, decided to call Mr. Chuck Watson because of the gravity of the damages and time being of the essence; to request he delay his actions until the staff (Marceaux or Evans) could review the letter sent them by Ms. Jan Alexandra the Board's Enforcement Officer (which is a standard form letter).

Unfortunately, Mr. Watson wanted me to state my involvement. I tried to explain it was my intention to help both parties and if he felt I was intruding I would step out.

The Board does not want to cause unfair damage to the owner, contractor or subcontractor and has in the past on several occasions allowed work to be completed by a party in violation. That is when deadlines or exposure could cause damage to the structure or would cause severe financial damage or where public health or welfare is at stake.

I state this was my only interest and it was for no personal gain including any show of power. Mr. Watson was very arrogant and self-confident. I am sorry Mr. Watson thought I was pressuring or intimidating him, this was not my style or intention. I am not sorry for quoting Mr. Watson the law.

I can see on review that Mr. Watson chose the wrong impressions. It is my opinion that Mr. Watson felt he was in the position to take advantage of Ms. Breaux's, La. Building Maintenance company.

It is my opinion when he pressed me to explain what I had to do with his business; I quoted the statutes; it scared him that he had broken the law himself. Mr. Watson seem to understand and agreed to wait for the staff to advise of its review.

Mr. Watson has misrepresented, misquoted and excluded what I told him.

I repeated my conversation to Mr. Marceaux when he called me about 4:30PM. Mr. Marceaux said he would close the file if he did not hear of any other problems and approved of me calling

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Donald G. Lambert

back Mr. Watson to say that La. Build. Maint. could not return to the job hoping Mr. Watson and Ms. Breaux could work out their problems. Mr. Watson did not take my call.

I think in general my conversation with Mr. Marceaux is correct in your report; however, the only discussion we had about a hearing was an illustration that we would not have a hearing to put pressure on a contractor. I state unequivocally that I did not ask Mr. Marceaux to call an administrative hearing for leverage.

The question is who broke the law and who had something to gain. The facts are clear, Donald G. Lambert did not have anything to gain and there is no indication from anyone that I wanted to do anything but help.

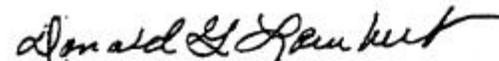
I will in the future make sure to use the procedure of letting the staff handle the party or parties who have an alledged violation.

I have spent since 1973 serving, the Governor, my State, the Board, and the contractors of Louisiana with honor, respect, and dignity; and it would break my heart to be accused of anything less than honor, respect and dignity.

The old saying "The Truth Shall Set You Free" is the rule I want to be judged by. It has served me well.

I think all these many years of service with not one speck of unfavorable light should speak for itself and be considered.

Respectfully yours,


Donald G. Lambert

cc: David W. Morales
Gordon S. Devall

Attachments

Town Construction Company, Inc.

1844 RYDER DRIVE
BATON ROUGE, LOUISIANA 70808
TELEPHONE (504) 769-4000



March 12, 1999

Mr. Bill Lynch
State Inspector General
P. O. Box 94095
Baton Rouge, La. 70804

RE: File No. 1-99-0071

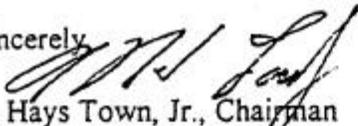
Dear Mr. Lynch:

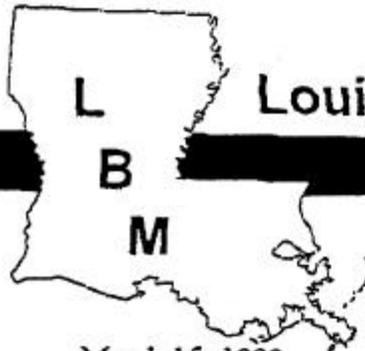
I have carefully read the Draft of the Inspector General's Report concerning the investigation of a member of the State Licensing Board of Contractors in the Clark Construction Group, Inc. matter.

The State Licensing Board must stand for proper implementation of and respect for our laws. This can't be sustained if any of the Licensing Board members or the staff personnel is using their position to influence wrongdoing.

In the best interest of the Board and Mr. Lambert I believe the exigency of this matter demands resolution so the Licensing board and staff can function with integrity.

Sincerely,


A. Hays Town, Jr., Chairman
State Licensing Board for Contractors



Louisiana Building Maintenance Co., Inc.

WATERPROOFING, PAINTING, ROOFING, AND PRESSURE WASHING

Office: 504-282-2011
Fax: 504-282-7633

5101 Perlita St.
New Orleans, La. 70122

March 15, 1999

State of Louisiana
Office of State Inspector General
Post Office Box 94095
Baton Rouge, LA 70804
David Morales

Dear Mr. Morales,

In response to the report faxed to me on March 10, 1999 regarding my situation with both Clark Construction and Board member, Donald Lambert, I have prepared the following response:

It is highly unfortunate that I end up feeling misrepresented and further frustrated. It appears that in an effort to punish Mr. Lambert and myself, that Clark Construction, also in violation receives no penalties whatsoever. I have been removed from the job. I have not been paid the \$37,000 that Clark Construction still owes me. This entire situation has been a nightmare for me and I am humiliated by the impression you give of my company.

First of all, when the Board inspector came to the Shreveport site and found that my company did not possess a contractors license I received a phone call from him, I then reached my lead person and had the job stopped. According to Mr. Morales, we were removed by Mr. Watson, this is the first misrepresentation of the facts. Mr. Watson was not in Shreveport at the time and was not aware of the situation until after my men had left the site.

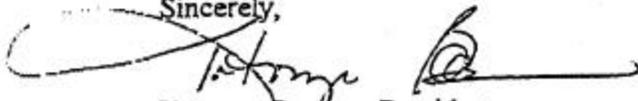
Secondly, it is stated by Mr. Morales in my interview in his report that I contradicted myself by saying that this was my first job over fifty thousand and was unaware of the law. It is in fact true that this was my first job over fifty thousand. I signed this contract in November 1998. There was a situation prior to this that placed me in violation with the Board. The situation I refer to was with Grimaldi Construction and was not a contractual one. We never entered into a formal contract. I was hired to paint a building for fourteen thousand dollars and the owners continued to ask me to do additional work. We never realized the amount until an inspector came on that site. The previous situation occurred on December 3, 1998. I had already entered into a formal contract with Clark and started work. I hoped to take and pass the test before any additional problems arose.

Mr. Morales also states that Clark Construction has paid me the thirty-seven thousand dollars it owes to me, I never told him this and it remains untrue. Clark agreed to work this situation out with me after a meeting with both Clark and HCI in New Orleans, this arrangement has yet to work out. Mr. Watson continues to place unfair demands on my company.

I am appalled by the charges against Mr. Lambert. This may not matter, I understand that. As is typical, the feelings of a huge corporation like Dallas based Clark Construction takes precedence over those of your small, local companies. I claim responsibility for my actions, I dare not try to escape that. However, I called on a board member I hardly knew in a state of hysteria when I was given only two hours to resolve a situation that could not possibly have been resolved in such a short amount of time. In my car I phoned Mr. Lambert after calling the board and not having any success. Mr. Lambert told me that he would try to help. I believe, that any person, with any amount of compassion would have done the same. I was in jeopardy of losing my bond, this matter was of extreme urgency in the survival of my business. I was never asked for money or any compensation from Mr. Lambert. This was not a business deal for him, it appears to me that it was a HUMAN deal.

I reiterate how very unfortunate this whole situation is and I feel completely responsible for Mr. Lamberts troubles. I will, however, stand by his efforts to help a small, minority-owned company from the destructive hands of a large out-of-state corporation.

Sincerely,



Katonya Breaux, President

CC: Mr. Bill Lynch