

BEFORE THE CONTRACTORS BOARD

STATE OF IDAHO

In the Matter of the Registration of:

GUTTER GUY IDAHO, LLC,
Registration No. RCE-50282,

Respondent.

Case No. CON-2022-42

**STIPULATION AND
CONSENT ORDER**

WHEREAS, the Idaho Contractors Board ("Board") has received information that constitutes sufficient grounds for the initiation of an administrative action against Gutter Guy Idaho, LLC ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**I.
STIPULATED FACTS AND LAW**

1. The Board regulates the practice of contracting in the State of Idaho in accordance with Title 54, Chapter 52 of the Idaho Code.

2. The Board issued Respondent Registration No. RCE-50282. Respondent's registration is subject to the provisions of Title 54, Chapter 52 of the Idaho Code, and the Board's rules promulgated at IDAPA 24.21.01, *et seq.*

BACKGROUND

3. On or around February 7, 2019, Respondent first registered with the Board as an Idaho contracting entity.

4. On or around March 1, 2021, Respondent submitted a \$1,280.00 construction bid to M.R. (“Complainant”) to install two new gutters on Complainant’s RV garage and repair an inside corner of the garage [REDACTED]. On or around the same date, Complainant accepted the bid.

5. Respondent’s bid did not display its contractor registration number.

6. After entering into the contract, Respondent performed the agreed-up work and Complainant paid Respondent in full.

7. After the work was completed, Complainant contacted Respondent and requested certain repairs. Specifically, Complainant identified the following issues with Respondent’s work:

- a. The two spouts Respondent installed did not match colors.
- b. The strap on the down spout did not match the spout itself.
- c. Facia board was damaged during the install.
- d. The corner was crooked and the screws were not painted to match the gutters.

8. Respondent informed Complainant that it would return the following week to repair the work. Respondent, however, did not return. Complainant attempted to call Respondent several times, but did not receive a response.

9. On or around November 9, 2021, the Division of Occupational and Professional Licenses spoke with Respondent’s owner, Orville Coonce, as part of its investigation. Coonce stated one of his employees was supposed to perform the requested repairs, however, the employee no longer worked for Respondent. Coonce said that it would contact Complainant and arrange to have the repairs completed.

10. Respondent did not contact Complainant or perform the requested repairs.

COUNT I
Failing to Display Registration Number

11. All facts set forth in this Stipulation are incorporated into Count I.

12. Respondent failed to display its contractor registration number on the bid it submitted to Complainant on or around March 1, 2021.

13. The allegations set forth in Count I constitute a violation of the following laws governing the practice of contracting in the State of Idaho: Idaho Code §§ 54-5214(2) (failing to prominently display contractor registration number on all advertising, contracts, permits, company or business letterheads, and purchase orders and subcontracts); 54-5215(2)(a) (violating the Idaho Contractor Registration Act). Violations of these laws constitute grounds for disciplinary action against Respondent's registration or authority to practice contracting in the State of Idaho.

COUNT I
Failing to Perform Repairs

14. All facts set forth in this Stipulation are incorporated into Count II.

15. Respondent failed to repair its construction work for Complainant as promised.

16. The allegations set forth in Count II constitute a violation of the following laws governing the practice of contracting in the State of Idaho: Idaho Code §§ 54-5215(2)(g) (dishonest or dishonorable dealings); and 54-5215(2)(a) (violating the Idaho Contractor Registration Act). Violations of these laws constitute grounds for disciplinary action against Respondent's registration or authority to practice contracting in the State of Idaho.

II.
WAIVER OF PROCEDURAL RIGHTS

In entering into this Stipulation and Consent Order (“Stipulation”), Respondent or Respondent’s legally authorized representative agrees to and acknowledges the following:

17. Respondent understands and admits the allegations pending before the Board as set forth in Section I. Respondent further understands that these allegations constitute cause for disciplinary action upon Respondent's registration or authority to practice contracting in the State of Idaho.

18. Respondent understands that Respondent has the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence, call witnesses, or testify; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of contracting in the State of Idaho. Respondent hereby freely and voluntarily waives these rights in order to enter into this Stipulation as a resolution of the pending allegations.

19. Respondent understands that in signing this Stipulation, Respondent is enabling the Board to impose disciplinary action set forth in this Stipulation upon Respondent's right to future registration without further process.

20. Respondent understands and agrees that Respondent may not withdraw or seek to rescind this Stipulation prior to the time the Board considers and acts upon it.

III. STIPULATED DISCIPLINE

21. Respondent acknowledges and agrees that the following discipline imposed for the violations set forth herein is reasonable under the circumstances, although not binding upon the Board unless or until it issues an Order accepting this Stipulation.

Scope of Disciplinary Action

- a. All terms and conditions set forth in this Stipulation, including the stipulated discipline, shall apply to Respondent, all of Respondent's assumed business

names, anyone with an interest in Respondent¹, all registrations subsequently granted to Respondent, and all registrations subsequently granted to anyone with an interest in Respondent.

Fines, Costs, and Fees

- b. Respondent shall pay to the Board a civil fine in the amount of \$750.00 within one (1) year of the entry of the Board's Order.
- c. Respondent shall pay investigative costs in the amount of \$415.00 and attorney fees in the amount of \$500.00 for a total amount of \$915.00 within one (1) year of the entry of the Board's Order. All monies paid by Respondent shall be applied towards the costs and attorney fees award first before application to the civil fine.
- d. Respondent shall pay all fines, costs, and attorney fees set forth in this Stipulation directly to the Board as follows:
 - (1) Payments made via check or money order shall be mailed to the following address: P.O. Box 83720, Boise, ID 83720-0063.
 - (2) Payments may be hand-delivered to the following address: 11341 W. Chinden Boulevard, Boise, ID 83714.
 - (1) Payments made via credit card or debit card shall be made online at dopl.idaho.gov Click on Professions & Occupations in the upper left corner to locate the Contractors Board page. There you will find a “Quick Links” tab for Online Disciplinary Actions Payment. Debit and credit card payments will not be accepted over the telephone.
- e. If Respondent fails to pay the civil fine, investigative costs, and attorney fees in accordance with the terms set forth in this Stipulation, Respondent

¹ The phrase “anyone with an interest in Respondent” refers to interests owned by an individual, firm, partnership, limited liability company, limited liability partnership, corporation, trust, association, or other entity or organization capable of conducting business, or any combination thereof acting as a unit.

and anyone holding an interest in Respondent shall be ineligible to renew Registration No. RCE-50282, obtain any other registration issued by the Board, or hold an interest in any entity registered by the Board until such fines, costs, and attorney fees are paid in full.

Probation

- f. Respondent's Registration No. RCE-50282 shall be placed on probation for two (2) years. The probationary conditions are as follows:
- (1) Respondent shall comply with the terms of this Stipulation and timely and fully pay all of the fines, costs, and fees.
 - (2) Respondent shall comply with all state, federal, and local laws, rules, and regulations governing the practice of contracting in the State of Idaho.
 - (3) Respondent shall inform the Board in writing of any change of place of practice or place of business within fifteen (15) days of such change.
 - (4) Respondent shall cooperate with the Board and its agents and submit any information and documentation within a reasonable period of time upon request.
 - (5) Respondent shall make all relevant files, records, correspondence, or other documents available immediately upon the demand of any member of the Board, the Board's staff, or the Board's agents.
 - (6) If requested by the Board or its agents, Respondent shall provide an executed release authorizing the Board and its agent to obtain any

information, oral or written, as the Board may deem relevant to assist it in adequately reviewing Respondent's compliance with the terms of probation and this Stipulation.

Miscellaneous Provisions

- g. Respondent is solely responsible for all costs associated with complying with this Stipulation.
- h. Respondent's violation of any of the terms of this Stipulation may warrant further Board action. The Board, therefore, retains jurisdiction over this proceeding until all matters set forth in this Stipulation are resolved.

IV.

PRESENTATION OF STIPULATION TO BOARD

22. The Board's prosecutor shall present this Stipulation to the Board so the Board may consider whether to approve it.

23. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects this Stipulation, a formal Complaint may be filed against Respondent with the Board. In the event this Stipulation is rejected and a formal Complaint is filed, Respondent waives any potential right to challenge the Board's impartiality to hear the allegations in the Complaint based on the Board's consideration and rejection of this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

24. If the Board rejects this Stipulation, with the exception of Respondent's waiver set forth in the preceding paragraph, this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing. Additionally, and with the exception of Respondent's

waiver set forth in the preceding paragraph, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

V.
VIOLATION OF STIPULATION AND CONSENT ORDER

25. In the event Respondent violates or fails to timely comply with any term or condition of this Stipulation, the Board shall be authorized to take additional disciplinary action pursuant to the following procedures and without regard to any other requirement set forth in the Idaho Code, IDAPA rules, or any other statutory or regulatory provision:

- a. The Board's Executive Officer or the Administrator of the Division of Occupational and Professional Licenses shall serve Respondent with notice of the charges levied against Respondent. Within twenty-one (21) days of service of such notice, Respondent shall submit a response (along with supporting documentation, if any) to the allegations and specifically request a hearing before the Board. If Respondent does not submit a timely response, the charges or alleged violations will be deemed admitted. If Respondent does not submit a timely and specific request for a hearing, Respondent waives any right to such hearing.
- b. At the hearing, the Board and Respondent may submit evidence and present oral argument in support of their positions. Unless otherwise ordered by the Board, oral arguments and the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation. At the hearing, the facts and substantive matters related to the violations described in Section I of this Stipulation shall not be at issue.

- c. At the hearing, the Board may impose additional discipline, including, but not limited to, the revocation or suspension of Respondent's registration, the imposition of civil fines, the recovery of costs and fees (including, but not limited to, attorney fees) incurred by the Board, and other conditions or limitations upon Respondent's practice.

26. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

27. In the event Respondent fails to comply with the terms of this Stipulation, the Board shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Stipulation without further notice or administrative hearing.

28. A faxed or scanned executed copy of this Stipulation shall be sufficient and the same as the original signed document.

29. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

VI.
ACKNOWLEDGMENT

I have read the attached Stipulation in its entirety and have had the opportunity to discuss it with legal counsel. I understand that, by its terms, I am waiving certain rights accorded me under Idaho law. I understand that the Board may approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 31st day of March, 2023.



Orvil Coonce
Gutter Guy Idaho, LLC

ORDER

Pursuant to Idaho Code § 54-5207, the foregoing is adopted as the decision of the Board of Contractors in this matter and shall be effective on the 3 day of April, 2023. IT IS SO ORDERED.

IDAHO CONTRACTORS BOARD



By _____
Board Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April, 2023, I caused to be served, by the method(s) indicated, a true and correct copy of the foregoing upon:

Gutter Guy Idaho, LLC

Attn: Orvil Coonce

[Redacted]
[Redacted]
[Redacted]

U.S. Mail
 Certified Mail, Return Receipt Requested
 Fax Transmission

Eric F. Nelson

Naylor & Hales, P.C.

950 W. Bannock St., Ste. 610

Boise, ID 83702

U.S. Mail
 Hand Delivered
 Email: eric@naylorhales.com
 Fax Transmission 208-383-9516

[Redacted]

Staff
Division of Occupational and Professional Licenses