

**BEFORE THE CONTRACTORS BOARD**

**STATE OF IDAHO**

In the Matter of the Registration of:

MICHAEL F. ROSE,  
d/b/a M ROSE RESTORATION,  
Registration No. RCT-50388,

Respondent.

Case No. CON-2022-84

**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 Michael F. Rose ("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 of this Stipulation and Consent Order ("Stipulation"):

**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. RCT-50388. Respondent's registration expired on November 28, 2020, and was therefore canceled as of November 29, 2020. On February 17, 2021, Respondent entered into a stipulated Order with the Board wherein he surrendered his contractor registration, including all renewal or reinstatement rights.

## **PRIOR DISCIPLINE**

### **Case No. CON-2022-84**

3. On February 17, 2021, the Board entered a stipulated Order against Respondent where he admitted to engaging in the following violations of the laws governing the practice of contracting.

- a. Failing to display his contractor registration in violation of Idaho Code § 54-5214(2).
- b. Failing to provide statutorily-required consumer disclosures in violation of Idaho Code §§ 54-5215(2)(b); and
- c. Engaging in dishonest or dishonorable dealings in violation of Idaho Code §§ 54-5215(2)(g). In so doing, Respondent admitted that he received a \$1,400.00 down payment from a customer but failed to perform any work or provide a refund.

4. As a result of the foregoing violations, Respondent surrendered his contractor registration, including all renewal or reinstatement rights. The Board also ordered Respondent to pay a \$1,250.00 fine as well as the investigative costs and attorney fees associated with his case.

## **BACKGROUND**

5. At all times relevant to this Stipulation, Respondent operated under an assumed business name, M. Rose Restoration. Respondent has also operated under a variety of other assumed business names such as The Painting Company, Zion's Painting, Eagle Mountain Painting, Koating Kings, American Epoxy Pros, and M. Rose Restoration Outreach.

6. On February 17, 2021, Respondent surrendered his contractor registration as part of a Board disciplinary proceed against him in Case No. CON-2022-84.

7. After surrendering his registration, Respondent operated a Facebook page for his construction business wherein he advertised his contracting services and offered to perform these services to the public.

8. At all relevant times to this Stipulation, R.T. (“Complainant”) owned and operated a yoga studio [REDACTED]. Complainant’s studio floors began bubbling from the hot yoga classes she taught.

9. Sometime in or around September 2021, (“Complainant”) viewed Respondent’s business Facebook page. Complainant then contacted him about updating her yoga studio flooring.

10. On or around September 14 2021, Respondent submitted a \$5,000.00 bid to Complainant wherein he offered to, among other things, install epoxy flooring in an artistic style at her studio.

11. Respondent’s bid, which was drafted on his company letterhead, falsely indicated that Respondent was a registered contractor. Specifically, the bid displayed the registration number, RCT-50388, that Respondent surrendered as part of the Board disciplinary proceeding in Case No. CON-2022-84 in February 2021.

12. Complainant accepted Respondent’s \$5,000.00 bid and agreed to provide Respondent with a \$1,100.00 membership credit for yoga classes. Respondent indicated that he intended to provide his son with the membership credit.

13. On September 14, 2021, Complainant paid Respondent a \$1,000.00 down payment. Respondent told Complainant that it would only take a few days to complete the project.

14. Thereafter, Respondent delayed the construction project on multiple occasions. In or around mid-October, 2021, Respondent informed Complainant that he needed to postpone the

project because of supply issues. He also requested that Complainant pay him another \$1,000.00 so he could purchase more materials.

15. On or around October 13, 2021, Complainant paid Respondent the requested \$1,000.00.

16. Approximately six weeks after the parties entered into their contract, Respondent began working on Complainant's flooring.

17. In or around mid or late-October 2021, Respondent contacted Complainant and claimed he was finished with the work. Respondent also requested that Complainant pay him the remaining \$2,500.00.

18. When Complainant returned to her studio, she discovered that Respondent had not completed the work. Additionally, the studio flooring was unusable and unsafe for her clients. Portions of the subfloor were exposed and uneven, and nails protruded from the top of the wood flooring.

19. Complainant contacted Respondent about his substandard and unfinished work, however, he refused to fix it or provide a refund.

20. On or around December 20, 2021, Complainant filed a lawsuit against Respondent in small claims court. On March 11, 2022, the court awarded Complainant \$3,149.00.

**COUNT I**  
**Unregistered Practice of Contracting**

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

22. Respondent engaged in the unregistered practice of contracting.

23. The allegations set forth in Count I constitute a violation of the following laws governing the practice of contracting in Idaho: Idaho Code §§ 54-5204(1) (stating that it is unlawful for any person to engage in the business of contracting or to hold himself out as a contractor in Idaho without being registered with the Board); and 54-5215(2)(a) (violations of the Idaho Contractor Registration Act).

## **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:

24. 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.

25. 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.

26. 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.

27. 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**

28. 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 Respondent<sup>1</sup>, all registrations subsequently granted to Respondent, and all registrations subsequently granted to anyone with an interest in Respondent.

**Cease and Desist**

- b. Respondent shall immediately cease and desist from engaging in the unregistered practice of contracting.

**Fines, Costs, and Fees**

- c. Respondent shall pay to the Board a civil fine in the amount of \$1,000.00 within one hundred eighty (180) days of the entry of the Board's Order.
- d. Respondent shall pay investigative costs in the amount of \$400.00 and attorney fees in the amount of \$700.00 for a total amount of \$1,100.00

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<sup>1</sup> 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.

within one hundred eighty (180) days 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.

- e. 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.
  - (3) Payments made via credit card or debit card shall be made online at [dopl.idaho.gov](http://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.
- f. Respondent and anyone holding an interest in Respondent shall be ineligible to obtain any registration issued by the Board or hold an interest in any entity registered by the Board until the fines, costs, and attorney fees set forth in this Stipulation are paid in full.

**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**

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

30. 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.

31. 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**

32. 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 Division of Occupational and Professional Licenses shall serve Respondent with notice of the charges



levied against Respondent. Within twenty-one (21) days of service, Respondent shall submit a response (along with supporting documentation, if any) to the allegations and 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 timely and specifically request 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.

33. This Stipulation is the resolution of a contested case and is a public record.

34. 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.

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

36. 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 \_\_\_ day of \_\_\_\_\_, 2023.



**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 14th day of April, 2023. IT IS SO ORDERED.

IDAHO CONTRACTORS BOARD

By   
Board Chair

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of April, 2023, I caused to be served, by the method(s) indicated, a true and correct copy of the foregoing upon:

Michael Rose

[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](mailto:eric@naylorhales.com)  
 Fax Transmission 208-383-9516

[Redacted]

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Staff  
Division of Occupational and Professional Licenses