ORIGINAL

BEFORE THE IDAHO STATE CONTRACTORS BOARD

In the Matter of the Registration of:	)	
	)	Case No. CON 2008-149
TK ENTERPRIZE,	)	
Registration No. RCE-17958,	)	**FINAL ORDER**
	)	
Respondent.	)	
	)	

THIS MATTER is before the Board pursuant to the Default Order and Findings of Fact, Conclusions of Law and Recommended Order issued on July 20, 2009 by Paul S. Penland, the designated Hearing Officer in this case. A Default Order issued because the Respondent failed to answer or appear in this matter. The factual allegations set forth Complaint against Respondent were deemed true and, therefore, no formal hearing was held.

The Board, having independently reviewed the record and considered the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order and all other matters of record, and good cause appearing therefore, enters the following Order.

IT IS HEREBY ORDERED as follows:

1. Jurisdiction. Idaho Code § 54-5206 empowers the Board to administer the Idaho Contract Registration Act codified at title 54, chapter 52, Idaho Code. In the course of administering the Act, the Board has jurisdiction over all registered and unregistered persons engaging in the business of, or acting in the capacity of, a contractor in the State of Idaho. *See* Idaho Code § 54-5204(3). The Board may discipline any person who violates the Act. *See* Idaho Code § 54-5215.

2. Default. Respondent is in default, and the Hearing Officer's Findings of Fact and Conclusions of Law are adopted and incorporated herein by this reference.

3 Facts. The Complaint's factual allegations are deemed to be true.

4. Grounds for Discipline. The Respondent's actions described in the Complaint constitute grounds for discipline under Idaho Code § 54-5215(2)(b) (grounds

for discipline exist where a contractor has violated the Idaho Consumer Protection Act, chapter 6, Title 48 Idaho Code. Under Idaho Code § 45-525(4), "failure to provide complete disclosures as required" by Idaho Code § 45-525 is "an unlawful and deceptive act or practice in trade or commerce" that violates the Idaho Consumer Protection Act). Respondent's conduct also is grounds for discipline under Idaho Code § 54-5215(2)(h) (grounds for discipline exist where contractor's conduct in the performance of construction "substantially fails to meet the generally accepted standard of care in the practice of construction in Idaho").

5. Discipline Imposed. The Board imposes the following discipline upon Respondent:

a. Respondent's registration, including any right to renew that registration, is revoked.

b. Respondent is fined one thousand dollars ($1000.00). Respondent must pay this fine within sixty (60) days from the date of this Order.

c. Respondent must pay the fees and costs incurred by the Board to investigate and prosecute this matter. The amount of the fees and costs that Respondent must pay shall be determined as follows:

i. Within forty five (45) days from the issuance of this Order, the State must file an affidavit, setting forth the fees and costs incurred to investigate and prosecute this matter.

ii. If Respondent objects to the fees and costs claimed by the State, then Respondent may, within thirty (30) days from the date on which the State serves its affidavit, file a written objection to those fees and costs and, if he desires, a written request for a hearing on the objection. If Respondent files a timely objection to the State's claimed fees and costs, then the Board will consider Respondent's objection in determining the amount of costs and fees that Respondent must pay. If, however, Respondent fails to file a timely objection, then the Respondent will have waived Respondent's ability to object, and Respondent must pay the total fee and cost amount set forth in the State's affidavit.

iii. Within ninety (90) days from the issuance of this Order: (a) if Respondent filed a timely objection, then Respondent must pay the total fee and cost amount as determined by the Board; or (b) if Respondent did not file a timely objection, then Respondent must pay the total fee and cost amount set forth in the State's affidavit. .

6. Due Process Rights. This is a final order of the Board. Accordingly:

a. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the issuance of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5246(4).

b. Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (i) a hearing was held; (ii) the final agency action was taken; (iii) the party seeking review of the order resides, or operates its principal place of business in Idaho; or (iv) the real property or personal property, if any, that was the subject of the agency action is located.

c. Any appeal must be filed within twenty-eight (28) days of: (i) the issuance of this final order; (ii) the issuance of an order denying a petition for reconsideration; or (iii) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

7. Service of Order. The Bureau Chief of the Bureau of Occupational Licenses shall cause a true and correct copy of this Final Order to be served upon the Respondent and the State's attorney by mailing a copy to them at their respective addresses, as provided.

/////

DATED this 11th day of September, 2009.

IDAHO STATE CONTRACTORS BOARD

By _____
Anthony Hughes, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of September, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

TK Enterprize
P.O. Box 18181
Spokane, WA 99228

- [x] U.S. Mail
- [ ] Hand Delivery
- [x] Certified Mail, Return Receipt Requested
- [ ] Overnight Mail
- [ ] Facsimile: _____
- [ ] Statehouse Mail

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- [ ] U.S. Mail
- [ ] Hand Delivery
- [ ] Certified Mail, Return Receipt Requested
- [ ] Overnight Mail
- [ ] Facsimile: _____
- [x] Statehouse Mail

Tana Cory
Tana Cory, Bureau Chief