

BEFORE THE HEATING, VENTILATION, AIR CONDITIONING AND REFRIGERATION
LICENSING BOARD
DIVISION OF LABOR
DEPARTMENT OF LABOR AND LICENSING
STATE OF ARKANSAS

IN RE: Clifton “Buck” Wisinger
500 D West Washington
Camden, Arkansas 71701

ORDER

On this 9th day of February 2022, this matter came before the Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Licensing Board of the State of Arkansas. Miles Morgan, Associate Counsel, Department of Labor and Licensing, represented the agency. Clifton “Buck” Wisinger was properly notified by personal service of the hearing but did not attend. Based on the testimony and other evidence, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. On January 13, 2022, the Arkansas Department of Labor and Licensing (“DLL”) issued a civil money penalty to Clifton “Buck” Wisinger (“Wisinger”) in the total amount of **\$4,250.00**. This sum represented a \$250.00 penalty for 17 separate violations of the State HVACR statutes and rules.
2. Wisinger was timely notified of this hearing by personal service before the Board which was held on Wednesday February 9, 2022 at 10 a.m.
3. Wisinger is not currently licensed by the HVACR Licensing Board. His license expired in 2017.
4. Wisinger is doing business as “Clifton Buck Wisinger” and holds himself out as being licensed and able to contract for and complete HVACR work.
5. Inspector Pearson for the DLL determined 17 violations of the State HVACR code as adopted by the Board.

6. It should be noted that current chairman, Alan Dean, recused from the hearing due to a conflict of interest with Wisinger. Ronnie Dorsey presided over the hearing.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 17-33-301 (a) and (b) prohibits any person from performing heating, ventilation, air conditioning and refrigeration work in Arkansas without a license.
2. Ark. Code Ann. § 17-33-202 *et seq.* authorizes the Department of Labor and Licensing to assess a civil money penalty subject to appeal to the Board for licensing violations; violations of the HVACR Code Authority Act, Ark. Code Ann. § 17-33-204 *et seq.*; and violations of rules promulgated by the Board.
3. Ark. Code Ann. § 17-33-307(2) authorizes the Board to suspend or revoke any license or registration if it finds that the holder of the license or registrant has demonstrated incompetency to act as a license holder or registrant according to rules and standards promulgated by the board.
4. The civil money penalty in this case equals or is less than the \$250.00 per violation for a first offense established by statute. Ark. Code Ann. § 17-33-204. The penalties are also within the guidelines established by the rule of the Board.
5. The Board, in its discretion, may increase or decrease a penalty taking into consideration:
 - a. The degree and extent of harm to the public safety or to property, or the potential harm;
 - b. The duration and gravity of the violation;
 - c. Whether the violation was committed willfully or intentionally, or reflects a continuing pattern;

- d. Whether the violation involved elements of fraud or deception either to the public or the Board, or both;
 - e. The violator's prior disciplinary record with the Board;
 - f. Whether and to the extent which the violator profited by the violation.
6. In the present case, the Board has not increased the civil money penalty assessed against Wisinger. However, it is important to note:
- a. There was no testimony from Wisinger to explain or attempt to mitigate the proposed violations, and the absence of a defense established to the Board Wisinger's awareness that the work he was performing required licensed HVACR personnel. This was willful and intentional.
 - b. Wisinger did directly profit from his violations because he was the contracting party. He was not a mere employee following the instructions of an employer.
7. The Board voted to uphold the civil money penalty assessed against Wisinger in the amount of \$4,250.00.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against Clifton "Buck" Wisinger in the amount of \$4,250.00 is affirmed.

HEATING, VENTILLATION, AIR CONDITIONING and
REFRIGERATION LICENSING BOARD, DEPARTMENT
OF LABOR AND LICENSING,
STATE OF ARKANSAS

By: _____

Ronnie Dorsey, Co-Chairman

Date: 4-1-2022

Approved as to Form:

Miles Morgan, 2017-049

Assistant Counsel

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