

BEFORE THE HVACR LICENSING BOARD  
DIVISION OF LABOR  
DEPARTMENT OF LABOR AND LICENSING  
STATE OF ARKANSAS

**IN RE:**        **Acie Smith**  
**Diversified Heating & Air**  
**16674 Indian Creed Rd.**  
**Garfield, AR 72732**

**ORDER**

On this 8<sup>th</sup> day of February 2023, this matter came before the HVACR Licensing Board (the "Board"). Miles Morgan, Associate Counsel, Department of Labor and Licensing, represented the agency. Acie Smith ("Smith") was properly notified but did not appear before the Board. Based on the testimony and other evidence, the Board makes the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT:**

1. On December 12, 2022, the Board issued a Notice of Hearing on Violations and Proposed Penalties (the "Notice") to Smith. The Notice provides that the department staff is recommending the imposition of a civil money penalty in the amount of \$1,250.00 for allowing five individuals to perform HVACR work without a license. The Notice also provides that the hearing would be held on Wednesday February 8, 2023, at 10:00 a.m. in the fourth floor Board Room of the offices of the Arkansas Department of Labor and Licensing (the "Department").
2. Smith did not appear before the Board for the hearing.
3. Code Enforcement Coordinator, Samantha Martinez, testified that the Notice was delivered to Smith on December 15, 2023, at 11:57 AM via USPS mail.

4. Inspector JC Brenaman ("Brenaman") testified that on December 1, 2022, he observed a vehicle with identification markings of "Diversified Heating and Air" at a construction site of new homes in Centerton, Arkansas.
5. Brenaman made contact with five (5) individuals at the construction site who confirmed they had been employed by and working for more than thirty (30) days for Diversified Heating and Air. None of the individuals on site possessed an HVACR license.
6. One of the individuals provided Brenaman with contact information for the business owner, Acie Smith, who spoke with Brenaman and admitted to attempting to have his employees licensed but never followed up on the process.
7. Smith subsequently sent Brenaman cell phone pictures of checks made out to the Department for each individual employee, but the Department has not received the checks or heard from Smith.

#### **CONCLUSIONS OF LAW**

1. 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.
2. It is unlawful for any person to engaged in HVACR work without the appropriate license or registration provided by this chapter, unless exempted pursuant to this chapter. Ark. Code Ann. § 17-33-101.
3. The civil money penalty equals or is less than the \$250.00 per violation for a first offense established by statute. Ark. Code Ann. § 17-33-204.
4. In the present case, the Board has not increased the civil money penalty assessed against Smith.
5. The Board voted to uphold the staff recommendation and impose a civil money penalty of \$1,250.00.

**IT IS THEREFORE ORDERED** that the Board imposes a civil money penalty against Acie Smith DBA Diversified Heating and Air in the amount of \$1,250.00.

HVACR LICENSING BOARD,  
DEPARTMENT OF LABOR AND LICENSING,  
STATE OF ARKANSAS

By: 

Alan Dean, Chairman

Date: 2-13-2023

Approved as to Form:  
Miles Morgan, 2017-049  
Associate Counsel  
Arkansas Department of Labor and Licensing  
900 West Capitol  
Little Rock, AR 72201  
(501) 682-4507