

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

**IN RE: Larry Brewer, individually and
 Brewer Services Inc.
 614 Alexander St.
 Lepanto, AR 72354**

ORDER

On this 13th day of April 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. Larry Brewer was properly notified and appeared before the board in person for the hearing. Based on the testimony and other evidence, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. On March 17, 2022, the Arkansas Department of Labor and Licensing issued a civil money penalty to Mr. Larry Brewer ("Brewer") in the total amount of **\$3,000.00**. This sum includes a civil penalty of \$250.00 each for 12 separate violations of the State HVACR code as adopted by the Board.
2. Brewer was timely notified of his hearing before the Board which was held on Wednesday April 13, 2022 at 10 a.m.
3. Brewer is doing business as "Larry Brewer" or "Brewer Services, Inc."

4. The inspection by the Arkansas Department of Labor and Licensing (“ADLL”) was the result of a complaint filed by Yanks BBQ restaurant owner, Danny Wells (“Wells”).
5. Inspector Don Brannen determined 12 violations of the State HVACR Code as adopted by the Board.
6. Included in the inspection report were text messages between Brewer and Wells regarding the work progress from August to September 2021. These messages also reflect that Brewer sent an employee to perform HVACR work during that time.
7. Also included in the inspection report was a letter from Brewer Services, Inc. to Wells terminating their relationship dated October 22, 2021.
8. Brewer entered four exhibits into the record and testified that the violations in the ADLL inspection reports were not from his work but from the work of two prior HVACR workers that Wells employed for the same job (Yanks BBQ).
9. Brewer did not offer witness testimony or information regarding those alleged HVACR workers. Brewer also testified that he did pull a permit from the City of Blytheville but did not enter the permit into the record as an exhibit or produce a copy of the permit at the hearing.
10. Brewer testified that the employee referenced in the text message is a licensed HVACR worker but failed to provide the license or license number as an exhibit or publish it to the Board.
11. It should be noted that even if Brewer’s employee is licensed to perform HVACR work, there is no employee listed as a registrant on Brewer’s License Data Sheet.

12. Brewer stated the License Data Sheet contained wrong information regarding his social security number and his date of birth. However, the License Data Sheet did accurately reflect his license number, name, and address.

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. 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.
3. 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.
4. 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.
5. In the present case, the Board has not increased the civil money penalty assessed against Mr. Brewer. This penalty is far below the maximum the Board could have allowed in matters such as this.
6. Mr. Brewer testified and introduced exhibits into the record for the Board to consider.
7. The Board voted to uphold the staff recommendation, imposing a civil money penalty of \$3,000.00.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against Larry Brewer in the amount of \$3,000.00 is affirmed.

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

By: 
Alan Dean, Chairman

Date: 5-11-2022

Approved as to Form:

Miles Morgan, 2017-049

Assistant Counsel

Arkansas Department of Labor and Licensing

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