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

IN RE: JAMES ADAMS, individually and
J. ADAMS CONCTRUCTION LLC.
611 Lee Street
Lake Village, AR 71653

ORDER

On the 12th day of February 2020, this matter came before the Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Licensing Board of the State of Arkansas. Marcus C. Devine, Associate Counsel, Department of Labor and Licensing, represented the agency. James Adams appeared personally in his own behalf. 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 16, 2019, the Arkansas Department of Labor issued a civil money penalty to Mr. James Adams in the total amount of **$3000.00**. This sum represented a $250 penalty for performing HVACR work without a license. Additionally, this sum includes a civil penalty of $250 each for 11 separate violations of the State HVACR Code as adopted by the Board.

2. James Adams timely requested a hearing before the Board which was held on Wednesday February 12, 2020 at 10 a.m.

3. James Adams is not licensed by the HVACR Licensing Board. He is licensed by the Contractors' Licensing Board.

4. James Adams is doing business as J Adams Construction LLC. entered into a contract with Julie Floriani to make additions to a home in Lake Village, Arkansas. The contract price was $75,6452.86 and part of the agreement included James Adams securing and installing or having installed HVACR equipment.

5. James Adams performed the HVACR work on the Floriani residence, although Mr. Adams did testify that the work was "partially installed" by an unnamed Mississippi persons with HVACR capabilities.

6. There were 12 violations of the State HVACR Code as adopted by the board.

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 the HVACR Code Authority Act, Ark. Code Ann. § 17-33-204 *et seq.*; and violations of rules promulgated by the board.

3. The civil money penalty in this case equals or is less than the $250 per violation for a first offense established by statute. Ark. Code Ann. § 17-33-204. The penalties also are within the guidelines established by 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 for 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 James Adams. However, it is important to note:

a. Mr. Adams's own testimony and his responses to questions from the Board established his awareness that the work he was performing that required a licensed HVACR personnel. This was willful and intentional.

b. Mr. Adams did directly profit from his violations because he was the contracting party. He was not a mere employee following the instructions of an employer.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against James R. Adams in the amount of **$3000.00** is affirmed.

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

By: _____
Drew Harrison, Chairman

Date: 2-28-2020

Approved as to Form:

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