

BEFORE THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD

Complaint File 17.52. S

In the Matter Of:

METRO GREENSCAPE, INC. and  
HEATHER MARIE BROCKELBANK, Qualifier  
(License No. CL1233)

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CONSENT ORDER

THIS MATTER is before the North Carolina Landscape Contractors' Licensing Board ("Board"), pursuant to G.S. §89D-22 and with the consent of Metro Greenscape, Inc. Respondent Licensee) and Heather Marie Brockelbank (Respondent Qualifier), for consideration of an entry of a Consent Order in lieu of an administrative hearing.

With Respondents' consent, the Board makes the following:

**FINDINGS OF FACT**

1. On January 1, 2016, Metro Greenscape was issued a landscape contractor's license, license no. CL1233. The license was last renewed on August 1, 2017 and is currently active. Heather Marie Brockelbank is the qualifier for Respondent Licensee.
2. Neither Respondent Licensee nor Respondent Qualifier have had prior disciplinary action imposed by the Board.
3. Respondent Licensee is a South Carolina corporation with its principal office in Charlotte, Mecklenburg County, North Carolina. Respondent Qualifier is the corporation's registered agent and secretary.
4. On or about July 6, 2017, Elizabeth Mirandes ("Mirandes") filed a complaint with the Board alleging problems related to poor drainage. The Board subsequently commenced an investigation.

5. On or about March 3, 2017, Respondent Licensee submitted a proposal to perform landscape contracting at Mirandes' home located at 1527 Peachcroft Road, Charlotte, Mecklenburg County, North Carolina. The estimate was \$11,170.31. The scope of work included design and installation of walkways and plants to improve surface drainage. The estimate was subsequently approved by Mirandes.
6. The parties did not execute a subsequent document which described the specific services to be performed by Respondent Licensee.
7. After the initial installation, Mirandes noticed poor drainage conditions. Representatives of Respondent Licensee returned to address the issues.
8. On or about May 4, 2017, Respondent Licensee submitted a new proposal to perform remedial landscaping at Mirandes' home. The estimated total was \$1,706.32.
9. Upon investigation, the Board identified the following violations of Title 21, Chapter 28, Subchapter B of the N.C. Administrative Code:
  - a. .0501(a)(11) in that the contract was not signed by all parties;
  - b. .0504(2) in that the placement of pavers and preparation of raised beds prevented positive water flow from the shed; and
  - c. .0509(3), (4), and (9) in that pavers were not installed on a well-compacted base, pavers blocked surface drainage and no edge restraint was used along the edge of the pavers behind the shed.
10. Respondent Licensee and Respondent Qualifier assert that the homeowner added concrete edging after completion of the project, exacerbating drainage problems. Further, the pavers referenced above in paragraph 9 were purchased by Mirandes prior to Respondents' involvement in the project and Mirandes instructed Respondents as to how the pavers were

to be installed. Finally, Respondents initially installed edge restraint around the pavers with the intention of adding pebbles. However, Mirandes opted not to add pebbles and requested a “stepping stone” appearance without edging.

### **CONCLUSIONS OF LAW**

The actions of Respondent Licensee and Respondent Qualifier, as described above in paragraphs 6 and 9, are violations G.S. §89D-22 as they constitute the following:

- a. acts of gross malpractice or incompetence; and
- b. a willful violation of G.S. §89 D-22 and rules adopted by the Board.

Based on the foregoing and with Respondents’ consent, IT IS THEREFORE ORDERED as follows:

1. License Number CL1233 issued to Metro Greenscape, Inc. is hereby REPRIMANDED.
2. Heather Marie Brockelbank is hereby REPRIMANDED.
3. Respondent Qualifier shall locate and take a two-hour course on drainage and paver installation, approved by the Board, within twelve months from the date this Consent Order is approved by the Board.
4. Respondents shall comply with Chapter 89D of the N.C. General Statutes and the Board’s rules and regulations.
5. Noncompliance: If Respondents fail to comply with any provision of this Consent Order or breach any term or condition thereof, either in substance or timing, upon written demand, Respondent Licensee’s license shall be suspended for six months. If Respondents dispute that such a violation of the conditions has occurred, then Respondents must file a written objection with the Board WITHIN TEN (10)

BUSINESS DAYS of the date of the notice of the violations to request a show cause hearing. The notice to the Board shall contain with specificity the violations disputed. Upon receipt of this notice of objection, Board staff shall schedule a show cause hearing before the Board at the next scheduled meeting date for which appropriate notice can be provided or scheduled by consent of the parties.

6. Waiver: Failure to file a written objection with the Board within the designated time period will be construed to mean Respondents are not contesting the matter and all further proceedings to which Respondents are otherwise entitled by law are hereby waived.
7. Modification: Any request for modification of this Consent Order must be submitted in writing to the Board and approved prior to the modification occurring.
8. Effective Date: The effective date of this Consent Order shall begin on the date that it is approved by the Board, provided that the Board will not consider the Consent Order unless an original signed by the parties are received prior to the Board meeting at which the Consent Order is being considered.

Approved by the Board this the 22 day of March 2018.

NORTH CAROLINA LANDSCAPE  
CONTRACTORS' LICENSING BOARD

By: Cornelia I. Hoyes  
Cornelia I. Hoyes  
Chairman



## STATEMENT OF CONSENT

### LICENSEE

The undersigned does hereby certify that she has read the foregoing Consent Order in its entirety and that on behalf of Respondent Licensee, she freely and voluntarily admits that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that Respondent Licensee will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that Respondent Licensee assents to the terms and conditions set forth therein.

The undersigned consents to service of the fully-executed Consent Order via first-class mail at the following address: 1622 Parker Drive, Charlotte, NC 28208.

This the 7 day of March 2018.

Heather Marie Brockelbank

METRO GREENSCAPE, INC.

Heather Marie Brockelbank, Secretary

STATE OF SOUTH CAROLINA

~~STATE OF NORTH CAROLINA~~

COUNTY OF YORK

Sworn and subscribed before me this  
the 7<sup>TH</sup> day of MARCH 2018.

Gregory Turner  
Notary Public

GREGORY TURNER  
Typed or Printed Notary Name

My Commission Expires: 4-18-2018

## STATEMENT OF CONSENT

### QUALIFIER

The undersigned does hereby certify that she has read the foregoing Consent Order in its entirety and that on behalf of Respondent Qualifier, she freely and voluntarily admits that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that Respondent Qualifier will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that Respondent Qualifier assents to the terms and conditions set forth therein.

The undersigned consents to service of the fully-executed Consent Order via first-class mail at the following address: 1622 Parker Drive, Charlotte, NC 28208.

This the 7 day of March 2018.

Heather Marie Brockelbank  
HEATHER MARIE BROCKELBANK,  
Individually

STATE OF SOUTH CAROLINA  
~~STATE OF NORTH CAROLINA~~

COUNTY OF YORK

Sworn and subscribed before me this  
the 7TH day of MARCH 2018.

Gregory Turner  
Notary Public

GREGORY TURNER  
Typed or Printed Notary Name

My Commission Expires: 4-18-2018