

BEFORE THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD

Complaint File No. 19.98.S

In the Matter Of:)
)
DS THORPE LANDSCAPES, LLC) **CONSENT ORDER**
(License No. CL0234) and)
DANIEL STETLER THORPE, as Qualifier)
)

THIS MATTER is before the North Carolina Landscape Contractors' Licensing Board (Board), pursuant to G.S. §89D-22 and with the consent of DS THORPE LANDSCAPES, LLC (Respondent Licensee) and DANIEL STETLER THORPE (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 August 1, 2015 DS THORPE LANDSCAPES, LLC (Respondent Licensee) was issued a corporate landscape contractor's license by the Board, License No. CL0234. Respondent Qualifier is the registered agent and managing member. The license was last renewed on August 1, 2020 and is currently active.
2. On August 6, 2019, Chris Miller filed a complaint against Respondent Licensee. The Board subsequently commenced an investigation.
3. Board complaint no. 19.98.S is the first and only complaint filed with the Board against either Respondent Licensee or Respondent Qualifier.
4. Upon information and belief, in 2018, Level Homes hired Respondent Licensee to perform landscape contracting services at ten new homes in the Bellaport neighborhood

in Wilmington, New Hanover County, North Carolina between the fall of 2018 and the spring of 2019.

5. On or about August 16, 2019, the Board's investigator performed a site visit and identified the following violation of Title 21, Subchapter 28B of the N.C. Administrative Code:

.0504 in that when grading, Respondent Licensee and Respondent Qualifier did not: (1) grade the surface such that the finish grade is smooth and free of depressions and debris; (2) did not insure positive water flow through the site, away from structures, and in such a manner that there is no puddling or ponding; and (3) did not comply with all applicable local and national building codes and ordinances regarding slopes and drainage.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties and subject matter in this action. Venue is proper.
2. The Board is charged with regulating the practice of landscape construction and contracting and therefore has standing under G.S. §§89D-22 and -23.
3. The actions of Respondent Licensee and Respondent Qualifier, as described above in paragraph 5, constitute a violation of G.S. §§ 89D-16 and 89D-22.

Based on the foregoing, and with Respondent Licensee's and Respondent Qualifier's consent, IT IS, THEREFORE, ORDERED as follows:

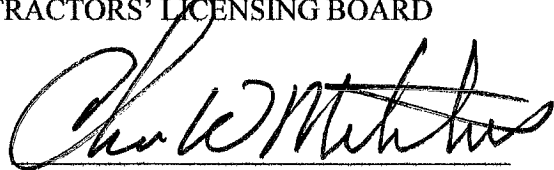
1. License No. CL0234 issued to Respondent Licensee is hereby REPRIMANDED.
2. Respondent Qualifier is hereby REPRIMANDED.

3. Respondents shall comply with Chapter 89D of the N.C. General Statutes and the Board's rules and regulations found in Title 21, Subchapter 28B of the N.C. Administrative Code.
4. **Noncompliance:** If Respondents fail to comply with any provision of this Consent Order or breaches any term or condition thereof, either in substance or timing, upon written demand, Respondent Licensee's license shall be suspended for six months. If Respondent Licensee disputes that such a violation of the conditions has occurred, a written objection must be filed 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.
5. **Waiver:** Failure to file a written objection with the Board within the designated time period will be construed to mean the Respondent Licensee is not contesting the matter and all further proceedings to which Respondent Licensee is otherwise entitled by law are hereby waived.
6. **Modification:** Any request for modification of this Consent Order must be submitted in writing to the Board and approved prior to the modification occurring.
7. **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 Respondents, is received prior to the Board meeting at which the Consent Order is being considered.

Approved by the Board this the 13 day of October 2020.

NORTH CAROLINA LANDSCAPE
CONTRACTORS' LICENSING BOARD

By:

A handwritten signature in black ink, appearing to read "Chris Mitchell", written over a horizontal line.

Chris Mitchell
Chairman

STATEMENT OF CONSENT

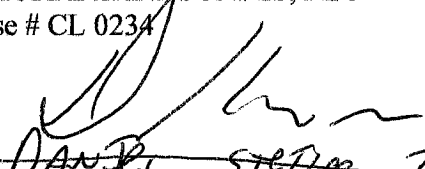
The undersigned does hereby certify that he has read the foregoing Consent Order in its entirety and that he freely and voluntarily admits that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that Respondent Licensee will 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 agrees that its counsel of record is authorized to accept service of the fully executed Consent Order via first-class mail addressed as follows:

Greg Katzman
The Law Offices of Gregory M. Katzman, PLLC
3819 Park Ave
Wilmington, NC 28403

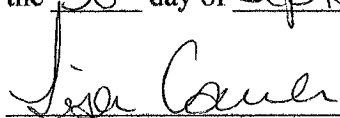
This the 30 day of September 2020.

DS THORPE LANDSCAPES, LLC
License # CL 0234

By  ^{DST}
DANIEL STETLER THORPE ^{MANAGER}
Print Name and Title MANAGER member

STATE OF NORTH CAROLINA
COUNTY OF Buncombe

Sworn to and subscribed before me this
the 30 day of September 2020.


Notary Public

Lisa Conner
Typed or Printed Notary Name

My Commission Expires: 07/28/2024

