

LAW OFFICES OF
MOYER, PARSHALL & TWEEDY, LLP

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December 14, 2005

June and Emil Relat
1020 San Ramon Way
Sacramento, CA 95864

Re: MJB Bixby Construction

Dear Mr. and Mrs. Relat:

As you may recall from our prior correspondence and telephone conversation, I represent MJB Bixby Construction. Mr. Bixby has asked me to respond to your letter on behalf of the company and to attempt to move this matter towards a resolution. I have reviewed your demand and the correspondence between you and Mr. Bixby throughout the course of construction, and feel that this is a matter which should be resolved amicably between the parties.

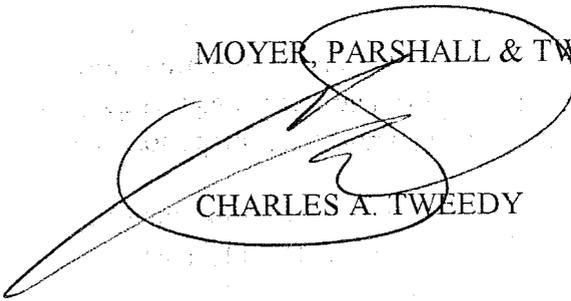
In order to intelligently consider your demand, I would like to obtain from you copies of the contract for the repair of the work which you have had done, copies of all payments, and any plans, correspondence or other communications between you and various contractors concerning the work so that I may adequately evaluate your proposal. Please do not consider this letter to be a rejection of your demand. I simply need more information in order to respond appropriately. It might also be helpful for me to deal with whomever you worked with at MRH Construction to get a better understanding of the asserted defects. If there were legitimate problems with the work which required correction, MJB Bixby Construction will certainly respond appropriately.

I hope that you will understand and appreciate that it is impossible to evaluate the accounting for the end of the construction contract completed by another contractor without verification of the numbers involved and the reasons for the additional work.

Once we have this information, I will promptly give you a response.

Very truly yours,

MOYER, PARSHALL & TWEEDY, LLP



CHARLES A. TWEEDY

CAT/bt

cc: Mr. Mark Bixby

January 3, 2006

Tony Aldana, Claims Department
HCC Surety Group: American Contractors Indemnity Company
9841 Airport Boulevard, Ninth Floor
Los Angeles, CA 90045

Subject: Proof of Claim : MJB Bixby Construction, Inc. (137451 – License Bond)

Dear Mr. Aldana:

Please find enclosed the Proof of Claim and attached documents regarding abandonment and faulty work by MJB Bixby Construction (License 571821) for work done at Mr. and Mrs. Emil and June Relat's property. Mr. and Mrs. Relat request payment from Bixby's bond for damage from the abandonment and faulty work.

If you have any questions regarding the enclosed documents, please contact me at the address below, at phone 653-5613 (work), or 549-5758 (cell). I am acting as agent and representing my parents, Mr. and Mrs. Emil and June Relat, in this matter.

Sincerely,



Cathy Crothers
4304 Hussey Drive
Carmichael CA 95608

Enclosure —

January 3, 2006

Charles A. Tweedy
Moyer, Parshall & Tweedy, LLP
11341 Gold Express Drive, Suite 110
Gold River, California 95670

RE: Abandonment and Construction Claim Against MJB Bixby Construction

Dear Mr. Tweedy:

Please find enclosed the documentation you requested to verify costs incurred by Mr. and Mrs. Emil and June Relat due to abandonment of the construction work that was to be completed under contract with MJB Bixby Construction (Bixby or Mr. Bixby). Included is an itemized accounting of the payments made by Mr. and Mrs. Relat to Bixby and other contractors to complete the work that Bixby should have done under the contract and to correct faulty workmanship by Bixby. Some of the values on the itemized accounting differ slightly from the values provided in the 12-1-05 demand letter because of more extensive review of the documents. During the negotiations and work that extended from May 2004 to May 2005, Mr. Bixby continued to adjust the costs under the contract without obtaining signed agreement from the Relats. It is difficult to determine what Mr. Bixby intended as a final contract amount, but it appears from the proposed contract dated 6-9-04 and the revised contract dated 10-14-04 that \$75,985 is probably a good estimate of such amount.

As indicated on the itemized accounting, Mr. and Mrs. Relat incurred added costs of approximately \$33,960 (this is less than the \$34,755 demanded in the letter of 12-1-05). This is a conservative estimate which Mr. and Mrs. Relat are willing to accept to resolve the claim.

Mr. and Mrs. Relat have not included added costs of vinyl siding that Mr. Bixby should have installed based on the 10-14-04 revised contract item number 13 (either T-11 or vinyl siding installed to owner's preference). The construction plans filed with the State Building Permit Office signed by Mrs. Relat do not show that T-11 would be used on the building. Mrs. Relat verbally made the request based on the written contract. The plans at the construction site were altered from the filed plans and the reference to T-11 was added after Mrs. Relat signed the plans. She never requested T-11 and it appears Mr. Bixby added this reference after the fact.

Enclosed are the MRH Construction contract, Fair Oaks Iron invoice, May 14, 2005 letter from Relats identifying paid items, Bixby contract, and Proof of Claim Form sent to HCC Surety Group, American Contractors Indemnity Company. I have not included all of the correspondence with Bixby. I also have not included

the photographs taken of the faulty work and the required repairs. These photos have been submitted to the American Contractors Indemnity Company Surety Group and the Contractor's State License Board. If you would like copies of the photos, please let me know.

As noted in the December 1, 2005, letter sent to Mr. Bixby, Ken Relat and I are representing Mr. and Mrs. Relat in this matter. Please send any questions or comments you may have on the above information to me at the address below. If Mr. Bixby is ready to settle the claim with Mr. and Mrs. Relat, please contact me to make arrangements for the settlement.

Sincerely,



Cathy Grothers
4304 Hussey Drive
Carmichael, CA 95608
(916) 653-5613 (work)

Enclosures

Cc: Emil and June Relat
1020 San Ramon Way
Sacramento, CA 95864

David Cardenas
Investigation Unit
State Contractor License Board
P.O. Box 269116,
Sacramento, CA 95826-9116

American Contractors Indemnity Company
Attn: Tony Aldana, Claims Department
9841 Airport Boulevard, 9th Floor
Los Angeles, CA 90045

Ken Relat
2715 Greenwood Avenue
Sacramento, CA 95821

Payments by Emil Relat for Construction of Guest House Under Contract with MJB Bixby Construction, Showing Additional Costs Incurred Due to Incomplete and Faulty Work by Bixby.

Date	Payment to:	Check #	Amount	Total	Comment
					Relat Payment on Bixby Contract
7/2/04	MJB Bixby	4559	\$3,760.00		Relat yard-house project
8/29/04	MJB Bixby	4625	\$10,000.00		
11/19/04	MJB Bixby	4776	\$20,000.00		per letter 11-19-04
12/18/04	MJB Bixby	4842	\$20,000.00		progress payment
2/8/05	MJB Bixby	4884	\$18,000.00		3rd installment
				\$71,760.00	
					Bixby Contract (proposed 6-9-04 and revised 10-14-04) = \$75,985 *
					Remaining Due = \$4,225
					Relat Payment on MRH Contract
7/15/05	MRH Constr.	150	\$8,000.00		Guesthouse 1st payment
8/11/05	MRH Constr.	179	\$8,000.00		2nd payment
8/25/05	MRH Constr.	211	\$8,000.00		3rd payment
8/26/05	MRH Constr.	213	\$2,775.00		correct Bixby errors & additional work (\$1000 not charged to Bixby)**
9/30/05	MRH Constr.	290	\$7,060.00		final payment part 1 (\$2360 not charged to Bixby)
9/30/05	MRH Constr.	288	\$1,900.00		final payment part 2
10/20/05	MRH Constr.	311	\$450.00		photos of Bixby Faulty work
				\$36,185.00	Total of MRH Contract ***
					Relat Payment on Other Costs
9/18/05	Erric Ostonal	278	\$400.00		Carpet Installation (not included in Relat 12-1-05 letter)
6/16/05	Fair Oaks Iron	249	\$2,480.00		Spiral Staircase 1st payment
11/9/05	Fair Oaks Iron	352	\$2,480.00		Spiral Staircase Final payment
				\$5,360.00	Total of other costs
				\$41,545.00	Total of MRH and Other Costs
				\$3,360.00	Subtract Costs not charged to Bixby
				\$4,225.00	Subtract Amount Remaining Due on Bixby Contract
				\$33,960.00	Total that Bixby owes to Relats due to incomplete and faulty work.
* On Nov. 4, 2004, Relats accepted the Bixby contract with an understanding that modifications could be agreed upon. However, because Bixby never completed the contract and a reconciliation of costs and work were never agreed on, Relats are using the 6-9-04 and 10-14-04 contracts as the basis for determining costs paid under the contract.					
** Total Relat Costs not charged to Bixby = \$3360. (A greater amount than in Relat 12-1-05 letter because did not include \$1000.)					
*** Relat letter of 12-1-05 had math error of \$195.00 and incorrectly had total of MRH Contract as \$36,380.					

Prepared 1-3-06 by Cathy Crothers based on original checks signed by Emil Relat.

Cathy Crothers

January 24, 2006

Charles A. Tweedy
Moyer, Parshall & Tweedy, LLP
11341 Gold Express Drive, Suite 110
Gold River, California 95670

RE: Abandonment and Construction Claim Against MJB Bixby Construction

Dear Mr. Tweedy:

Please find enclosed a computer disk with photos showing faulty work by MJB Bixby Construction (License 571821) for work done at Mr. and Mrs. Relat's property. Please review the enclosed photos with Mr. Bixby.

On January 3, 2006, I sent to you a letter with information you requested to verify costs of the claim for damage by Mr. Bixby as a result of faulty construction of their guest house. Based on the verified costs submitted to you, as counsel representing Mr. Bixby, I made a demand for payment on behalf of Mr. and Mrs. Relat in the amount \$33,960. If Mr. Bixby pays this claim, Mr. and Mrs. Relat will dismiss their claim pending at the State Contractor License Board against Mr. Bixby for abandonment and misrepresentation.

I have learned that Mr. Bixby has moved away from his residence in the Arden Park area. Mr. and Mrs. Relat are concerned that he will leave the area and not be responsive to this claim.

Please contact me as soon as possible, but by February 3 at the latest, as to whether Mr. Bixby will pay the \$33,960 to Mr. and Mrs. Relat. If so, we would like to meet with you as soon as possible before Mr. Bixby is unavailable.

As noted in my prior letters, Ken Relat and I are representing Mr. and Mrs. Relat in this matter. Please send your response on the above matter to me at the address below and I will make arrangements with Mr. and Mrs. Relat to meet with you and Mr. Bixby regarding resolution of this claim.

Sincerely,



Cathy Crothers
4304 Hussey Drive
Carmichael, CA 95608
(916) 653-5613 (work)

Enclosure

Cc: Mr. Mark Bixby
Contractor License No. 571821
MJB Bixby Construction Inc.
5852 88th St # 800
Sacramento, California 95828

Emil and June Relat
1020 San Ramon Way
Sacramento, CA 95864

David Cardenas
Investigation Unit
State Contractor License Board
P.O. Box 269116,
Sacramento, CA 95826-9116

American Contractors Indemnity Company
Attn: Tony Aldana, Claims Department
9841 Airport Boulevard, 9th Floor
Los Angeles, CA 90045

Ken Relat
2715 Greenwood Avenue
Sacramento, CA 95821



American Contractors Indemnity Company

California Contractor's License Bond
Proof of Claim Form: Breach of Contract

1. Please provide us with your name(s), company name (if company is the claimant), mailing address, telephone number(s), fax number, and email address.

Emil and June Relat
1020 San Ramon Way
Sacramento, CA 95864

(916) 489-8260
relat@comcast.net

2. Please provide us with the contractor's license number, name(s), mailing address, telephone number(s), fax number, email address, and website address.

Mark Bixby, MJB Bixby Construction Inc
Contractor Lic.# 571821
5852 88th St #800
Sacramento, CA 95828-1104
(916) 386-4017

3. Does your claim relate to an agreement between you and the contractor for work upon your residence? [X] Yes [] No. Please provide us with the physical address of the location(s) of the project(s):

1020 San Ramon Way, Sacramento, CA 95864

4. Please provide us with legible copies of the agreement(s) and any related documentation such as bids, estimates, proposals, change orders and/or building permits. See Attachments

5. If the agreement was oral or if there were oral modifications please provide the details below. Examples include: the date the agreement was entered into, the scope of work, the start and completion date of performance, the amount to be paid and the timing of payments under the agreement.

The original agreement was entered into based on a contract May 24, 2004. However, Relats anticipated some changes. A revised contract dated 10-14-04 and 6-9-04 proposal constitutes the contract accepted by Relats as indicated in the letter dated 11-4-04.

6. If not already included in the documentation requested above, please provide us with the original amount of the agreement, the amount of any changes, and the amount paid to date. See Spreadsheet showing Payments.

Please See Attached letter to Mark Bixby from Emil + June Relat (12-1-05)
Contract Amount = \$ 75,985. - (Based on 10-14-04 Relats revised contract and 6-9-04 proposal contract.)
Amount Paid = \$ 71,760.

7. Please provide us with your estimate of the percentage of work completed by the contractor to date: 60 %
Labor + 70 % Materials = 60 % Total

Although Bixby may claim most of building was complete, the Relats had to hire another contractor (MRH Construction) to finish the building after Bixby left the site. MRH Construction worked 9 weeks with 2 persons (2 Pys x 45 days) to finish building. Some work by Bixby was faulty and required removing and reinstalling interior wall panelling, repairing plumbing, electrical work, and framing work) as noted in attachment to Dec. 1, 2005 letter.



8. If you assert you were damaged by the contractor abandoning your construction project without legal excuse, provide us with the following: the date(s) of abandonment; copies of correspondence or other documentation that relate to this assertion; a description of the history and circumstances; and the amount of damages you assert that were caused by the abandonment. *Please see attachments, including letter to Bixby from Relats dated 12-1-05 and letter to Tweedy from Cathy Crothers (1-3-06) and photos showing faulty work and work that needed to be completed after Bixby left site. Also attached is letter from Relats to Bixby (6-6-05), notifying him that Relats filed complaint of abandonment with State Contractor's License Board and therefore Relats terminated further performance. Damage claim \$33,960, 00*
9. If you assert you were damaged by the contractor diverting contract funds paid to it for use on your construction project and/or failing to account for the use and application of payments received, provide us with the following: dates of the payments; copies of the payments; copies of preliminary notices, mechanic's liens and related correspondence from the contractor's subcontractors and suppliers; a description of the history and circumstances; and the amount of damages you assert that were caused by the diversion of funds and/or failure to account. *(see Summary of Payment and Costs, N/A*

10. If you assert you were damaged by the contractor failing to follow accepted trade standards for good and workmanlike construction, provide the following: a description of what work you believe was performed poorly; written evaluations of the contractor's work from other licensed contractors; written estimates to repair or replace the contractor's work; if you believe pictures or diagrams would assist us in understanding the poor work, we invite you submit those pictures along with this claim form, or you can email them to the claim examiner assigned to your claim after we receive your claim package. *See attached letter from Relats to Bixby (12-1-05) and copies of photos taken by MRH Construction documenting faulty work, (framing, panelling, plumbing, electrical). MRH Construction also completed work not done by Bixby but required under Bixby contract. (we will mail a CD of photos that will show photos better).*
11. After we receive your claim package and confer with the contractor, we may retain an independent construction consultant to inspect the contractor's work under certain circumstances. If you elect to proceed to have the work completed before such an inspection may be performed, if possible, take pictures of the first contractor's work that you elect to repair or replace. Also, please provide us with the contact information of the subsequent licensed contractor you utilize to perform the work and copies of the related documentation. *See Attached PHOTOS, Subsequent Contractor - MRH Construction - State License #738043.*

12. If you assert you were damaged by the contractor materially breaching the contract, provide us with the following: the date(s) of the material breach; copies of correspondence or other documentation that relate to this assertion; a description of the history and circumstances; and the amount of damages you assert that were caused by the material breach.

MRH Construction
 106 Oak Rock Circle
 Folsom, CA 95630
 Phone (916) 987-0707
 Fax (916) 987-7979



13. If you assert you were damaged by the contractor failing to progress with construction with reasonable diligence, provide us with the following: the date(s) the work stopped progressing with reasonable diligence; copies of correspondence or other documentation that relate to this assertion; and a description of the history and circumstances.

14. If you have filed a complaint with the Contractor's State License Board ("CSLB"), please provide us with copies of your complaint form and any correspondence between you and the CSLB to date and subsequent to your submission of this claim form. *A Complaint was filed on June 6, 2005. with CSLB. On Aug. 11, 2005, David Cardenas of CSLB notified Relat's of meeting with him on Oct. 21, 2005.*

15. If you are or become involved in litigation, arbitration or other legal proceeding with the contractor regarding this claim, please inform us of same and provide us with copies of the paperwork relating to that legal proceeding. You are not required to obtain a judgment against the principal prior to asserting a claim on the bond, but legal proceedings between the claimant and the contractor are relevant to our investigation of your claim. *- See attached letters*

See attached letter from Moyer, Parshall, & Tweedy, LLP, law office representing Mark Bixby, requesting documentation for claim. (dated 12-14-05)

FOR YOUR PROTECTION, CALIFORNIA LAW REQUIRES THE FOLLOWING TO APPEAR ON THIS FORM:

(California Insurance Code Section 1871.2)

"...Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in State Prison."

CERTIFICATION

The answers to this Proof of Claim form being the basis for a claim for payment of money under the terms and provisions of the California *Business and Professions Code*, Division 3, Chapter 9, beginning with Section 7000, et seq., and the undersigned hereby certifies and declares under penalty of perjury that the foregoing is true and correct.

Dated: December 26, 2005
(Month - Day) (Year)

Place of Execution: Sacramento, California
(City)

Signature of Complainant: *Juan M. Relat*
Emil J. Relat