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Re: ROC Discipline for Failure of Contractor to Pay Money

The Arizona Registrar of Contractors can discipline a contractor's license for failure to pay subcontractors or suppliers for work performed. In a recent case involving a claim for non-payment by a subcontractor, the ROC ruled in favor of a contractor who presented evidence that a hacker intercepted a wire transfer from the contractor to the subcontractor and made off with the funds. The ROC reasoned that the contractor was not at fault for the hack and, since it made an attempt to pay the sub, there was no violation of the ROC statutes.

On appeal to the Superior Court, the court found that the statute is to be strictly construed and that even a good faith attempt of payment does not relieve a contractor from the duty to pay its subs and suppliers. The contractor is therefore on the hook for paying the sub even if the contractor made a payment that was intercepted by a third party.

Arizona Revised Statute Section 32-1154

Grounds for suspension or revocation of license; continuing jurisdiction; civil penalty

A. The holder of a license or any person named on a license pursuant to this chapter may not commit any of the following acts or omissions:

...

10. **Failure by a licensee or agent or official of a licensee to pay monies in excess of \$750 when due for materials or services rendered in connection with the licensee's operations as a contractor** unless the licensee proves that the licensee lacks the capacity to pay and has not received sufficient monies as payment for the particular construction work project or operation for which the services or materials were rendered or purchased.

...

B. The registrar:

1. May investigate the acts of a contractor in this state on the registrar's own motion.
2. Shall investigate the acts of a contractor in this state on the written complaint of any owner or contractor that is a party to a construction contract or a person who suffers a material loss or injury as a result of a contractor's failure to perform work in a

professional and workmanlike manner or in accordance with any applicable building codes and professional industry standards.

...

3. May temporarily suspend, with or without imposition of specific conditions in addition to increased surety bond or cash deposit requirements, or permanently revoke any or all licenses issued under this chapter if the holder of the license issued pursuant to this chapter is guilty of or commits any of the acts or omissions set forth in subsection A of this section.