ORIGINAL

BEFORE THE BOARD OF CONTRACTORS

STATE OF IDAHO

In the Matter of the Registration of:	)	
	)	Case No. CON-2007-32
RICHARD BROKAW,	)	
Registration No. RCT-8416,	)	**ORDER OF EMERGENCY**
	)	**SUSPENSION OF REGISTRATION**
Respondent.	)	**AND NOTICE OF HEARING**
	)	

This matter having come before the Idaho Contractors Board (hereinafter the "Board") as an emergency proceeding pursuant to the provisions of the Idaho Administrative Procedures Act, Idaho Code § 67-5247, and the provisions of the Idaho Contractor Registration Act, title 54, chapter 52, Idaho Code, the Board finds and orders as follows:

FINDINGS OF FACT

After reviewing the file in this matter, it is hereby found that:

1. Richard Brokaw (hereinafter "Respondent") is registered to practice as a contractor in the State of Idaho under Registration No. RCT-8416.

2. As stated in the Affidavit of Budd Hetrick filed herein, on or about May 10, 2006, information was received by the Bureau of Occupational Licenses that Respondent's general liability insurance as required by Idaho Code § 54-5210 was canceled as of April 30, 2006. Respondent has failed to provide the Board with verification of current insurance as of April 30, 2006.

3. Respondent's failure to maintain general liability insurance is an ongoing threat to the public health, safety or welfare.

CONCLUSIONS OF LAW

Based upon the above findings of fact, the Board hereby reaches the following conclusions of law:

1. Idaho Code § 54-5202 provides that the practice of construction in the State of Idaho affects the public health, safety and welfare of its citizens.

2. Pursuant to Idaho Code § 54-5207, the Board has the responsibility and authority to enforce the provisions of the Idaho Contractor Registration Act.

3. Idaho Code § 54-5210(1)(d) requires registered contractors to maintain workers' compensation insurance or to provide the Board with a statement from an insurance company as to why such coverage is not required.

4. Idaho Code § 54-5210(1)(e) requires registered contractors to maintain general liability insurance covering Respondent's construction operations in the sum of not less than $300,000 single limit.

5. Pursuant to Idaho Code § 54-5215(2)(a), the Board has the authority to impose discipline against a registered contractor for failure to keep current or provide insurance coverage as required by the Idaho Contractor Registration Act.

6. Pursuant to Idaho Code § 67-5247, the Board may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action. The Board is authorized to take such actions as are necessary to prevent or avoid the immediate danger that justifies the use of emergency contested cases.

7. The findings of fact set forth above constitute grounds for the Board to act in an emergency proceeding to protect the public health, safety or welfare. Respondent has failed to maintain general liability insurance as required by the Idaho Contractor Registration Act.

8. The findings of fact set forth above constitute grounds pursuant to Idaho Code § 67-5247 for the suspension of Respondent's registration to practice as a contractor in the State of Idaho. This suspension is necessary to prevent or avoid an immediate danger to the public health, safety or welfare.

ORDER

NOW, THEREFORE, this matter having properly come before the Idaho Contractors Board, and based upon the above findings of fact and conclusions of law, the registration of Richard Brokaw to practice as a contractor in the State of Idaho is hereby **SUSPENDED** beginning ten (10) days following the date of service of this Order. The suspension shall remain in effect until the

Board issues an order upon the completion of proceedings in this matter pursuant to Idaho Code § 67-5247(4). The Board shall proceed as quickly as feasible to complete such proceedings.

NOTICE OF HEARING

Pursuant to the provisions of title 54, chapter 52, Idaho Code, and the duly promulgated rules of the Idaho Contractors Board, Respondent is hereby notified and requested to appear before the Board on **January 25, 2007**, at 9:00 a.m., at the Owyhee Plaza, Suite 220, 1109 Main Street, Boise, Idaho, and from time to time thereafter as may be required by the Board. Respondent may appear with or without the assistance of an attorney and present testimony and argument of defense with respect to the alleged violations contained in this Order of Emergency Suspension of Registration. Respondent is further notified that if he fails to appear, the Board may proceed and determine this matter in his absence.

All persons requiring assistance pursuant to the Americans with Disabilities Act in order to participate in or understand the hearing must request such assistance ten (10) days in advance of the hearing by contacting the Board at (208) 334-3233 or at 1109 Main Street, Owyhee Plaza, Suite 220, Boise, Idaho 83702-5642.

The hearing will be conducted pursuant to the Administrative Procedure Act codified at title 67, chapter 52, Idaho Code, the Idaho Rules of the Administrative Procedure of the Attorney General, promulgated at IDAPA 04.11.01, the Rules of the Bureau of Occupational Licenses, promulgated at IDAPA 24.20.01, and any relevant statutes or rules enacted by the Board pertaining to contested case proceedings. Copies of the Administrative Procedure Act and the Idaho Rules of the Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library. Please be advised that the Board will take official notice of the files and licenses of Respondent. Please be further advised that pursuant to Idaho Code § 67-5213, Respondent or Respondent's representative are prohibited from contacting any Board member or hearing officer with regard to this matter.

DATED this 19th day of December, 2006.

IDAHO CONTRACTORS BOARD

By _____
Jerry Nemec, Chair

NOTICE OF DUE PROCESS RIGHTS

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

a. A hearing was held,
b. The final agency action was taken,
c. The party seeking review of the order, resides, or
d. The real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of December, 2006, I caused to be served a true and correct copy of the foregoing by the following method to:

Richard Brokaw
3119 N. 39th
Boise, ID 83702

- [x] U.S. Mail
- [ ] Hand Delivery
- [x] Certified Mail, Return Receipt Requested
- [ ] Overnight Mail
- [ ] Facsimile: _____
- [ ] Statehouse Mail

Emily A. Mac Master
Deputy Attorney General