

WAND ELECTRIC INC.

P.O. Box 1273, Plattsburgh, NY 12901 1518-563-7986 / FAX 518-563-9093

Electrical Contractors. Energy Management Systems. Alarm Systems. Temperature Control Systems

April 10, 1996

Ms. Deborah A. Brown
Regional Vice President
American Arbitration Association
205 South Salina Street
Syracuse, NY 13202-1376

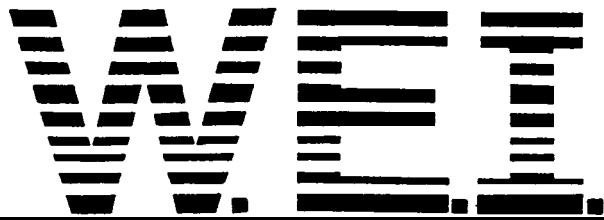
RE: Case # 15 110 00058 94

Dear Ms. Brown:

Recently my company concluded an arbitration hearing in Plattsburgh, NY with three of your arbitrators. I would like you to be aware that I, my attorney, our claims expert, our consulting engineer, our consulting attorney, and every single contractor familiar with this arbitration are appalled at the decision arrived at by this panel.

These three arbitrators, after two years of delay, eleven days of testimony, and nearly \$50,000.00 in arbitration fees between both parties, arrived at a one sentence determination with no damage award and absolutely no clarification whatsoever. I understand that this is allowed for in arbitration hearings, and though I may not necessarily agree with it, I have to accept this.

The problem that everyone aware of this particular case has, with the exception of the Owner, is that this panel completely failed to address the issues presented to them in testimony, in written and photographic evidence, and most egregiously, the actual breach of the A201 contract in at least six major areas.



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This panel apparently determined that my company was entitled to payment for labor and materials not paid for by the Owner and that the Owner was in turn entitled to be reimbursed for monies expended to complete the job and so therefore simply subtracted one amount from the other and arrived at a figure.

What was failed to be addressed were the following:

1) Section 4.3 Claims and Dispute

“ claim made by either party must be made by written notice within 21 days after recognition of the condition”

The Owner never filed a claim until nearly two years after contract termination and only then to the arbitration panel on the last hearing date.

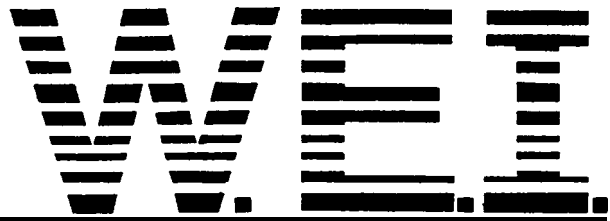
2) Section 5.4.2 Contingent Assignment of Subcontracts

“assignment is subject to the prior rights of the Surety, if any, obligated under bond relating to the Contract”

The Owner rejected the Surety's proposal of \$61,574.00 and instead elected to hire their “preferred” contractor on a time and materials basis without regard to mitigate completion costs for a sum of \$125,000.00 while completely changing the scope of the contract and the rehiring of some of our original subcontractors.

Section 4.2.7 Architect's Administration

“the Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product



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Data, and Samples.. “the Architects’s action will be taken with such reasonable promptness as to cause no delay in the Work”

The Architect has admitted in sworn testimony that our transmittal dates were accurate; further there is numerous correspondence and written meeting notes of the Architect’s indicating delays due to color selections and change in materials by the Architect and the Owner -- all produced into evidence.

4) Section 9.4.2 Certificates for Payment

“the issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner , that the work has progressed to the point indicated.....” ¶ that the Contractor is entitled to payment”

The Architect had certified for payment a partial portion of the last Request for Payment on the electrical contract. The Owner has admitted in testimony (Clinton County Attorney Louis Wolfe) that the entire sum is due and owing less a \$3500.00 change that the Owner caused to be done without a valid changeorder, without allowing the Contractor to complete the work, and without mitigation of expense, This sum has never been paid and completely unaddressed by the arbitrators.

5) Section 12.2 Correction of Work

“the Contractor shall promptly correct Work rejected by the Architect. ” and Section 12.2.4 “ if the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it”



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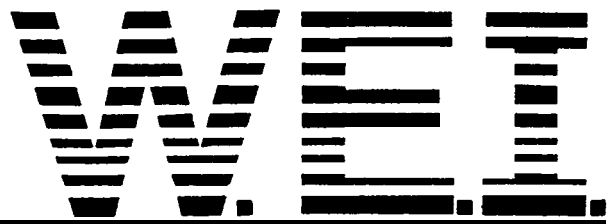
We were never allowed to correct any nonconforming work. A punch list was never prepared and our employees and subcontractors told to leave the jobsite when any attempt at completion or correction of work was attempted.

6) Section 10.1.4 Protection of Persons and Property

*“ the Owner shall indemnify and hold harmless the Contractor.....”
“only to the extent caused in whole or in part by negligent acts or omissions of the Owner”*

The Owner's employee admitted in testimony that he removed asbestos tile at the direction of the Owner and had no training, proper equipment, or right to do so. Further the Architect directed our employees to remove peeling lead paint from a second story ceiling and had our painting subcontractor hand sand lead paint from the first floor without proper protection because of his failure to address potential hazards as required under the RCRA of 1976.

There are many more issues than what I have presented here. There was deliberate sabotage by the Owner -- plowing snow against our stored material, turning the heat off in the building after we had left so that we were unable to work in the morning, refusal to store our material inside, refusal to make color selections in a timely manner all the while criticizing us for delay, refusing to tell us exactly what his objections of any alleged construction deficiencies were, etc.



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These issues and others were heard in their entirety by the arbitration panel and yet despite testimony by a professional consulting engineer, a claims expert, every single major subcontractor, a video tape, color photographs, and written confirmation from suppliers and manufacturer's, justice was not done...

If it is the goal of the American Arbitration Association to conduct hearings that take two years to come to fruition and then to simply arrive at a figure by subtracting "A" from "B", then you have succeeded. The Owner, the Architect, and your arbitrators have successfully ruined a 19 year old, 16 employee, \$2,000,000.00 a year business for nothing more than ego and arrogance on the aforementioned's behalf. There is cause to suspect that political influence was applied but this will in all likelihood never be proven.

What this means to me, and should also to every contractor in this country, is that a contract is not worth the paper it is written on because an arbitrator(s) may ignore issues of law and do as they please. I will be appealing this determination.

Most Sincerely,

Terry J. Chilton
President

American Arbitration Association

205 South Salina Street, Syracuse, NY 13202-1376

Telephone: (315) 472-548 3• Fax: (315) 472-0966



Deborah A. Brown
Regional Vice President

Mary Jo Champion
Director of Education Services

Raymond G. Riddett
Director of Case Administration

April 25, 1996

Terry J. Chilton, President
Wand Electric Inc.
PO Box 1273
Plattsburgh, NY 12901

RE: 15 11000058 94
Wand Electric, Inc.
and
Clinton County Highway Department

Dear Mr. Chilton,

I have read your letter of April 10, 1996, and I can appreciate your disappointment regarding the outcome of this case. Our records reflect your AAA fees and arbitrators' compensation were approximately \$15,000. This is a large amount to invest in a case.

I looked into the files of each arbitrator and find nothing to indicate any problems or complaints regarding service on previous cases. I wish there were something I could say to give you a better opinion of our services and the arbitration process, but unfortunately for you the case stands and has had a devastating effect on your business.

Thank you for taking the time to write me such a heartfelt letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Deborah A. Brown".

Deborah A. Brown
Regional Vice President