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RECEIVED

November 27, 2018

NOV 30 2018

Kathryn Pfefferle
Consumer Assistance Program
Office of the Vermont Attorney General
109 State St.
Montpelier, VT 05609

State of Vermont
Office of the Attorney General

Re: Michael Sears/Green Mountain Basement Solutions

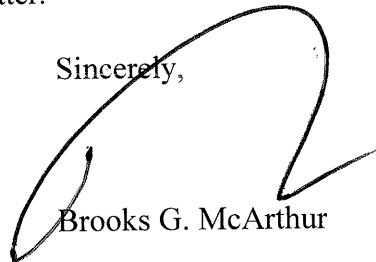
Dear Kathryn:

Pursuant to 1 V.S.A. §310-320, Vermont Public Records Law, please provide me with a copy of any and all complaints and/or reports involving Michael Sears and/or Green Mountain Basement Solutions. I have attached a copy of a Essex Police Department incident report for your reference.

If there are any fees associated with this request, please contact me and I will promptly forward payment.

Thank you for your assistance in this matter.

Sincerely,



Brooks G. McArthur

BGM:clp
Enclosure

11/19/18
12:56

Essex Police Department
LAW Incident Table:

21063
Page: 1

Incident

Incident Number 18ES05443 Nature Fraud
Case Number
Address✓ 22 MORSE DR Image
City Essex State VT ZIP 05452
Area 0406 ESSEX Contact david

Complainant

Numbr 48470
Last Aubut Fst David Mid
DOB SSN Adr✓
Race W Sx M Tel Cty ST VT ZIP

Details

Offense/Statute CDIS
Reported 1101 Observed CDIS

Circumstances LT24
Rspndg Officers Ruttenberg, Joh
Rspnsbl Officer Ruttenberg, Joh Agency 0406 CAD Call ID 6496761
Received By Hulbert, K Last RadLog 12:16:30 09/04/18 CMPLT
How Received T Telephone Clearance RBS Reviewed by Sergeant
When Reported 12:14:19 09/04/18 Disposition COM Disp Date 09/12/18
Occurrd between 12:14:00 09/04/18 Judicial Sts
and 12:14:00 09/04/18 Supervisor Dunn
MO

Narrative

Narrative (See below)
Supplement

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	48470	09/04/18	Aubut, David K	*Complainant
NM	297622	09/04/18	Sears, Michael A	POI
NM	1989005	09/04/18	Green Mountain Basement, Solut	BOI/AOI
CA	6496761	09/04/18	12:14 09/04/18 Fraud	*Initiating Call

LAW Incident Offenses Detail:

Seq Code	Offense and Statute Codes	Amount
	Statute Code	
1	CDIS Citizen Dispute	0.00

Narrative:

On the date/time of complaint, former manager David Aubut, presented himself at EPD to file a complaint. Aubut advised that he had been employed at Green Mountain Basement Solutions from 4/15/15 until 6/15/18 when he was terminated. At that time he was the general manager. Aubut filed a complaint with the AG's office on Jul 18, 2018. Aubut thought the AG's office would be dealing with his allegations of fraud and embezzlement. He only recently learned from AG investigator Abbie Lever, that they will only deal with his wrongful dismissal claim.

As a result, Aubut had not filed any other complaint regarding alleged embezzlement/fraud. Aubut advised that Sears had accepted cash deposits, checks made payable to him personally (and not the business) after the business was no longer functioning. These deposits from customers were paid directly to him at the location of the job, specifically, Milton and Starksboro. One of these deposits he took while an employee who was to do the job was out of country; the vehicles and eqpt had been sold by Sears already. Aubut also noted that he sold off assets of the company such as trucks, eqpt, and hid the proceeds from his co-owner (ex wife who had a 10 per cent interest in the company). Aubut noted many instances of Sears failing to pay employees for work they had completed. He mentioned Sears reclaiming tools he had bought for employees while they were loyal, after they had a falling out and he fired them. Aubut mentioned Tyler Pelican.

Note that several issues would be civil and/or for the AG's office to investigate. The fraud allegations would have to be a result of Sears accepting cash deposits under fraudulent circumstances, knowing the job wouldn't be undertaken/completed. These complaints would have to be investigated where they occurred. With regards to embezzlement, evidence would have to show that he took funds from the company while his wife/exwife still had an interest in the company without her knowledge/consent and hadn't compensated her portion.

Aubut will be completing a sworn written statement for review.

Background info:

On 8/27/18 I spoke with Ray Gingras (financial Comptroller) by phone. He advised that he stopped working at Green Mountain Basement Solutions Mid July, and that the business is all but closed. He advised that owner Sears has sold off, at extremely low prices, company assets such as trailers, trucks etc, and has left for Florida. Gingras noted that the business seems to be frozen; no work is being done, no payroll etc. Gingras advised that Sears is the sole owner of the business. Gingras noted that Sears sold an excavator for \$6K and a dump truck for \$6K, thousands less than value. Gingras believes that there are liens on these items. Gingras believes that Sears took deposits for customers and the jobs are not being done.

With regards to Tyler Pelican's tools; Gingras stated that Sears directed him to collect the tools that had been left in a work truck. Gingras said that Sears had been vague about the status of the tool kits presented to employees. It was Gingras' understanding that Sears had bought the milwaukee tool sets out of his own funds and not company funds. He also was under the impression the tools were an incentive to longer standing employees to stay on with the company by providing them tools. He said that Sears told him that Tyler Pelican's tool kit

was only a loan and not a gift. Gingras noted that Pelican's other items were in a black tool box (with a broken lid) that was left outside on the ledge possibly with shoes. I checked the area and did not locate any shoes, tools or toolboxes.

On 9/4/18, I met with former Manager David Aubut at EPD. He noted that Sears had routinely purchased tool kits for employees and presented/gave them to the employees as a gift. However, if they had a falling out and he terminated the employee, he would claim that the tools were only on loan to the employee and would take the tools back. Aubut to provide a sworn written statement about Sears' activities.

I followed up with Tyler Pelican by phone on 9/6. We discussed the situation and the low probability of any criminal prosecution against Sears for the missing tools. He understood fully and agreed that Sears would state that the tools he presented Pelican were only a loan while working for the company. Tyler is in contact with David Aubut (former mgr) and Ray Gingras (former comptroller) and Sears son. He is pursuing civil action through voshra and may file a civil suit. He is willing to speak with any investigator to discuss Sears' actions.

On 9/7/18, I was notified by Aubut that Sears was at Green Mountain Basement solutions on Morse Drive. I made contact with him there and he claimed he just returned from Florida yesterday. He confirmed that the business is closed, that all his employees had been notified they were laid off; he claimed he is going to file for bankruptcy. He claimed there was a mixup with bank accounts which caused some employees to question their final paychecks. Sears blamed the mixup on Ray Gingras. He mentioned owing a last week pay to Aubut and having given him a trailer in exchange.

I asked Sears about Tyler Pelican's tools and Sears claimed that the tools were company property and not a gift. I asked if Pelican or any other employees had their own personal tools/property left at the business and he claimed that they do not. He mentioned company tools having been stolen during a previously reported incident to EPD; he claimed a former employee saw the missing tools at other former employee's homes in Colchester and that they admitted to taking the tools to that individual. I suggested that he check his video system for any evidentiary footage or images and gather his serial numbers or other receipts for the missing items and forward that to the case officer. Sears appeared to be stressed out and noted that he is in the process of clearing out the Morse Dr unit so that the landlord can rent it out to someone else.

On 9/11 Aubut called claiming the AG's office investigator Kathryn tel had felony charges on Sears and that they wanted him to call 911 immediately should he see Sears. He also stated that Dan Gamlin from the Sheriff's dept wanted Sears as well. Aubut was excited and was trying to get law enforcement out looking for Sears who he claimed is hiding out with his brother. I told him I would look into the matter.

I confirmed that Kathryn is Kathryn Pfefferle, of the CAP (Consumer assistance program). She is not LE and advised that she specifically told Aubut that she doesn't give legal advice nor is she in any position to charge anyone criminally. She is merely dealing with some of the complaints regarding Sears' labor related practices. I contacted Dan Gamlin and he confirmed he has been and continues to serve Sears with administrative paperwork related to his labor/work practices on behalf of the AGs office. Both Dan and I verified that Sears is not wanted criminally.

This case is closed pending receipt of any useful/actionable info from Aubut, who has yet to bring in a statement alleging any wrongdoing by Sears.

//Ruttenberg//