Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
August 5, 2003 (9:00 a.m.)

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

David O. Harris Sr., Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney

	Participants
1. Timothy R. Allen t/a Golden Touch Painting File Number 2003-01240 (Disc)	None
2. Lonnie Smith t/a Midlothian Electric Co. File Number 2002-02105 (Disc)	Richard Kreiger – C
3. D'Lorah Tap File Number 2003-01043 (Disc)	Donna Bart – C
4. Robert Chichester t/a Atlas Renovation & Construction File Number 2003-00619 (Disc)	Chichester – R Charles Preston – R Atty
5. John Sylvania Matthews III t/a Matthews Well Drilling File Number 2002-02643 (Disc)	None
6. John Sylvania Matthews III t/a Matthews Well Drilling File Number 2002-03193 (Disc)	None

7. Christopher Williamson File Number 2003-03432 (Lic)	Williamson Franklin Reynolds – A Atty
8. Ricky D Dean t/a D and D Construction File Number 2003-00429 (Disc)	None
9. Ricky D Dean t/a D and D Construction File Number 2003-01905 (Disc)	None
10. Ricky D Dean t/a D and D Construction File Number 2003-02132 (Disc)	Jeffrey McGuinn - C
11. Ricky D Dean t/a D and D Construction File Number 2003-02054 (Disc)	None

The meeting adjourned at 2:15 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: TIMOTHY R. ALLEN, JR., T/A GOLDEN TOUCH PAINTING
LICENSE NUMBER 2705-064871

FILE NUMBER: 2003-01240

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Timothy R. Allen, Jr., t/a Golden Touch Painting on June 25, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David Harris, Sr., Presiding Board Member.

Timothy R. Allen, Jr., t/a Golden Touch Painting, did not appear in person or by any other qualified representative.

Summation of Facts

1. On October 22, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Donna Bryan (Bryan) regarding a contract entered into with Timothy R. Allen Jr. (Allen), t/a Golden Touch Painting.

2. On September 30, 2002, Bryan entered into a contract with Allen, in the amount of $1,500.00, for repairs to Bryan's residence at 10321 Berkeley Manor Drive, Mechanicsville, Virginia.

3. The contract used by Golden in the transaction reflected the address of 211 North Kalmia Street, Highland Springs, Virginia 23075.

4. On November 26, 2002, Investigator Becky C. Angelilli, the Board's agent, received information from the Postmaster that Allen's address was 211 North Kalmia Street, Highland Springs, Virginia 23075.

5. On February 6, 2003, the licensing records for the Board for Contractors revealed the license address of record for Allen was 213 E. Jerald Street, Highland Springs, Virginia 23075. The records further revealed there was no change of address made by the Board.

6. On or about October 1, 2002, Allen started the contracted work by replacing the siding on the right side, painting, and repairing the side and back doors.

7. On or about October 3, 2002, Allen left the project without completing the installation of four to six shingles on the roof. As of December 11, 2002, Allen failed to return and complete the contracted work.

8. The contract used by Allen in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (b) schedule for payment, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) the contractor's expiration date, class of license/certificate, and classification or specialty services.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(B).. (Effective September 1, 2001)

Failure by Allen to report in writing to the board within 30 days of a change of address, is in violation of the Board's 2001 Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of $200.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(9)(Effective September 1, 2001)

Failure by Allen to comply with the terms of a written contract which contains the minimum requirements is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of $200.00 be imposed. I further recommend Allen successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(15)(Effective September 1, 2001)

Upon review of the record, there is information that Bryan never obtained the necessary shingles for installation, but Allen never took steps to address the installation requirement. Failure by Allen to complete work contracted for and/or to comply with the terms of the contract, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of $250.00 be imposed.

By:

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David Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-064871 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: LONNIE A. SMITH, T/A MIDLOTHIAN ELECTRIC CO.
LICENSE NUMBER 2705-008538

FILE NUMBER: 2002-02105

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Lonnie A. Smith, t/a Midlothian Electric Co. on June 25, 2003. The following individuals participated at the conference: Richard Krieger, Complainant; Jennifer Kazzie, Staff Member; and David O. Harris, Presiding Board Member.

Lonnie A. Smith, t/a Midlothian Electric Co., did not appear in person or by any qualified representative.

Summation of Facts

1. On or about November 16, 2000, Richard Krieger and Midlothian Electric Company entered into a written agreement to perform electrical construction at Krieger's residence located at 12802 French Creek Trail, Chesterfield, Virginia, in the amount of $325.00.

2. The contract used by Smith failed to contain all the minimum provisions as required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when work is to begin and the estimated completion date, (b) a statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment, (c) a listing of specified materials and work to be performed, which is specifically requested by the consumer, (d) a "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license/certificate number, expiration date, class of license/certificate, and classification or specialty services, and (i) statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

3. On or about November 2000, Smith began the electrical work.

4. On or about November or December 2000, Smith failed to perform any further work on the job, leaving a live, dangling outlet in the garage, drywall damage, and a loose outlet in the bedroom. Smith also cut out the plastic electric box in the bedroom wall so the receptacle could not be fastened. Krieger attempted several telephone calls to Smith to have someone return to the job to correct the work. Krieger received no response to his telephone calls.

5. On or about January 11, 2002, Investigator Janet P. Creamer, the Board's agent, sent a letter to Smith at the address of record of P. O. Box 99, Midlothian, Virginia 23113. The Board's agent did not receive a response from Smith and the letter was not returned by the Post Office.

The Board's agent made several attempts to contact Smith at the telephone number shown on the Job Work Order. The Board's agent left messages for Smith at this telephone number. The Board's agent did not receive a response from Smith to the messages.

6. On February 20, 2002, Quinton Lee (Lee) responded to the telephone messages. Lee identified himself as an employee/service man for Midlothian Electric Company. Lee confirmed the company's address was P. O. Box 99, and the physical address was 709 Branchway "Drive", Midlothian, Virginia. Lee also confirmed the telephone number listed on the Job Work Order was still a good telephone number for Midlothian Electric Company. The Board's agent left a message with Lee to have Smith call the Board's agent. The Board's agent did not receive a response from Smith.

7. On February 22, 2002, the Board's agent sent a letter, via Federal Express, to 709 Branchway Road, Midlothian, Virginia 23113. On or about February 27, 2002, the letter was delivered and signed by Lee. The Board's agent did not receive a response from Smith.

8. On February 27, 2002, the Board's agent went to 709 Branchway Road, Midlothian, Virginia. The Board's agent observed that this address appeared to be a residential house. The Board's agent also observed that behind the house was another building with a sign "Midlothian Electric Company." The Board's agent left a business card at both the building in the back and at the house in the front. The Board's agent did not receive a response from Smith.

9. On or about February 21, 2002, Stuart Sharpe (Sharpe), Electrical Supervisor for the County of Chesterfield, informed Investigator Janet P. Creamer, the Board's agent, that Smith failed to obtain the required permit for the electrical work, pursuant to Section 109.0 of the Virginia Uniform Statewide Building Code .

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Smith's failure to make use of a legible written contract containing all the minimum provisions required is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of $300.00 be imposed. I further recommend that Smith successfully complete the Board's Basic Contracting Licensing Class (remedial education) within 6 months of the effective date of this order.

Count 2: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Smith's failure to obtain the required permit prior to commencement of work is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Smith's failure to complete the work contracted for is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Smith's failure to complete the job, leaving a live, dangling outlet in the garage, drywall damage and a loose outlet in the bedroom is misconduct in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of $1,500.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(11) (Effective May 1, 1999)

Smith's failure to respond to an investigator seeking information in the investigation of a complaint filed with the Board against the contractor is in violation of the Board's l999 Regulation 18 VAC 50-22-260(B)(11). Therefore, I recommend a monetary penalty of $500.00 be imposed.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-008538 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: D'LORAH TAP
LICENSE NUMBER 2705-028907

FILE NUMBER: 2003-01043

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to D' Lorah Tap on June 26, 2003. The following individuals participated at the conference: Donna Bart, Complainant; Jennifer Kazzie, Staff Member; and David O. Harris, Presiding Board Member.

D'Lorah Tap did not appear in person, and was not represented by any other qualified representative.

Summation of Facts

1. On August 27, 2002, Donna M. Bart (Bart) entered into a contract with Beach Fence Co. (Beach), in the amount of $4,800.00, for the installation of a fence at 8420 Reedy Branch Road, Chesterfield, Virginia.

2. On October 10, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Donna M. Bart regarding a contract entered into with Harold Mason (Mason) of Beach Fence Co.

3. During a telephone interview on or about October 28, 2002, Mason told Investigator George F. Paul (Paul), Criminal Investigator, that Beach Fence Co. was trading as D'Lorah Tap.

4. On February 19, 2003, the licensing records of the Board for Contractors revealed D'Lorah Tap was issued Class A Contractor's license number 2705028907, as a corporation.

5. On or about March 3, 2003, the State Corporation Commission records revealed D'Lorah Tap Enterprises, Inc's corporate status was terminated on July 31, 2001.

6. D'Lorah Tap failed to apply for a new license within 30 days of the dissolution of the corporation.

7. The licensing records of the Board for Contractors revealed Patricia Ann Mason was the Responsible Management as the President of D'Lorah Tap. On or about March 3, 2003, the State Corporation Commission records revealed Harold S. Mason was the President of D'Lorah Tap Enterprises, Inc. D'Lorah Tap failed to report to the Board within 90 days of the change in the officers of the corporation.

8. D'Lorah Tap failed to operate in the name in which the license was issued.

9. The contract used in the transaction reflected the address of P.O. Box 34694, Richmond, Virginia, 23234.

10. On February 13, 2003, the licensing records for the Board for Contractors revealed the address of record for D'Lorah Tap was 4116 Thalia Station Circle, Virginia Beach, Virginia 23452. The records further revealed there was no change of address with by the Board.

11. On or about August 28, 2002, Bart paid Beach Fence Co. $2,400.00 by check.

12. On or about August 30, 2002, Bart cancelled the contract and asked for a refund.

13. On or about September 6, 2002, Mason told Bart that a cashier's check had been mailed to her.

14. On or about February 14, 2003, Mason told Investigator Becky C. Angelilli, the Board's agent, that he would send a refund check to Bart.

15. As of August 5, 2003, according to Bart during the IFF, Mason has failed to return the $2,400.00 for work not performed.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-210(3) (Effective September 1, 2001)

Failure by D'Lorah Tap to apply for a new license within 30 days of the dissolution of the corporation is in violation of the Board's 2001 Regulation 18 VAC 50-22-210(3). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 2: 18 VAC 50-22-220(A)(Effective September 1, 2001)

Failure by D'Lorah Tap to notify the Board within 90 days of the change in the officers of the corporation is in violation of the Board's 2001 Regulation 18 VAC 50-22-220(A). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 3: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Failure by D'Lorah Tap to operate in the name in which the license was issued is in violation of the Board's 2001 Regulation 18 VAC 50-22-230(A). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 4: 18 VAC 50-22-230(B) (Effective September 1, 2001)

Failure by D'Lorah Tap to notify the Board within 30 days of a change of address is in violation of the Board's 2001 Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Failure by Mason to refund to Bart the $2,400.00 check, after Bart cancelled the contract, is in violation of the Board's 2001 Regulation
18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of $2,500.00 be imposed, along with license revocation.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-028907 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: ROBERT CHICHESTER, T/A ATLAS RENOVATION & CONSTRUCTION
LICENSE NUMBER 2705-058331

FILE NUMBER: 2003-00619

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Robert Chichester, t/a Atlas Renovation & Construction on June 16, 2003. The following individuals participated at the conference: Robert Chichester, Respondent; Charles G. Preston, Attorney for Chichester; Jennifer Kazzie, Staff Member; And David O. Harris, Presiding Board Member.

Summation of Facts

1. On August 21, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Denise Ann McMinn (McMinn) regarding a "contract" entered into with Robert Chichester (Chichester), t/a Atlas Renovation & Construction.

2. On or about February 9, 2002, Chichester signed a documents regarding "specifications and estimates" for construction to be performed at McMinn's property in the amount of $165,000.00 for two additions to McMinn's house, gutting the existing house, and restructuring interior walls. Subsequently, McMinn paid Chichester a total of $148,500.00 by checks.

3. On or about August 14, 2002, Chichester ceased work on the job. Chichester failed to install drywall, two bathtubs, fifteen (15) interior doors, the garage door, electrical sockets, switches, connections, plates, fans, plumbing connections, plumbing fixtures, window screens, gutters, tile, carpet, trim, the railing on the stairway downstairs, and the furnace connections after concealment. No work was done in the kitchen and no painting was done.

During the IFF, Chichester and/or Preston stated that McMinn had paid only $148,000.00 of the $165,000.00 agreed amount. In addition, other work was done that he needed to be paid for. Further, McMinn had told Chichester to stop work on the property.

4. On October 21, 2002, Investigator Carolyn D. Wright, the Board's agent, sent a letter to Chichester requesting a written response and supporting documents regarding the subject complaint. The Board's agent requested Chichester respond by November 4, 2002.

6. On December 4, 2002, Chuck Preston, Attorney, (Preston) stated to the Board's agent that he represented Chichester and he would respond to the subject complaint no later than December 18, 2002. On January 6, 2003, the Board's agent left a voice mail message for Preston that the response was overdue. As of February 10, 2003, neither Chichester nor Preston provided documents regarding the subject complaint.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective September 1, 2001)

Failure by Chichester to use a written contract, signed by both the consumer and the licensee, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Based upon a review of the record and testimony provided at the IFF, a fully executed contract was never entered into between the parties. In addition, there is testimony that McMinn told Chichester to stop work at the property. Therefore, I find there is insufficient evidence to find that Chichester failed to complete work contracted for, and recommend a finding of no violation of the
Board's Regulation 2001 18 VAC 50-22-260(B)(15).

Count 3: 18 VAC 50-22-260(B)(12) (Effective September 1, 2001)

Failure by Chichester to produce documents requested by the Board or it's agents is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Failure by Chichester or Preston, his representative, to respond to an investigator is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

During the IFF, testimony was provided that McMinn had agreed to a settlement in regards to the civil suit against Chichester, in the amount of $35,000.00. According to Preston, Chichester has paid $15,000.00, and is expected to pay the balance tomorrow, August 6, 2003. Although McMinn eventually received the funds, Chichester failed to return the funds in a reasonable time, noting work was last performed on or about August, 2002. Therefore, I find Chichester in violation of the Board's 2001 Regulation 18 VAC-22-2609B)(16), and recommend a monetary penalty of $1,000.00 be imposed.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-058331 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: JOHN SYLVANIA MATTHEWS, III, T/A
MATTHEWS WELL DRILLING

LICENSE NUMBER 2705-055976

FILE NUMBER: 2002-02643

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to John Sylvania Matthews, III, t/a Matthews Well Drilling, c/o John P. Light, Esquire on June 27, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David O. Harris, Presiding Board Member.

John Sylvania Matthews, III, t/a Matthews Well Drilling did not appear in person or by any other qualified representative.

Summation of Facts

1. Faye Reynolds (Reynolds) entered into a verbal agreement with John Sylvania Matthews III (Matthews), t/a Matthews Well Drilling, in the amount of $2,800.00, to drill a 300 foot well at 3736 Climax Road, Pittsylvania County, Virginia.

2. On or about February 11, 2002, Matthews drilled the well. Upon completion, Reynolds paid Matthews $2,800.00 in cash. Matthews provided Reynolds with a receipt, in the amount of $2,800.00, for the drilled well.

3. Matthews failed to provide Reynolds with a legible written contract clearly specifying the terms and conditions of the work to be performed, prior to the commencement of work or acceptance of payments.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Failure by Matthews use a written contract clearly specifying the terms and conditions of the work to be performed is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of $300.00 be imposed. I further

recommend Matthews successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-055976 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: JOHN SYLVANIA MATTHEWS, III, T/A
MATTHEWS WELL DRILLING
LICENSE NUMBER 2705-055976

FILE NUMBER: 2002-03193

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to John Sylvania Matthews, III, t/a Matthews Well Drilling, c/o John P. Light, Esquire on June 27, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David O. Harris, Presiding Board Member.

John Sylvania Matthews, III, t/a Matthews Well Drilling did not appear in person or by any other qualified representative.

Summation of Facts

1. On or about May 12, 2000, the Board for Contractors received an application from John Sylvania Matthews III (Matthews), t/a Matthews Well Drilling for licensure as a Class C contractor, a sole proprietorship. Matthews was listed in Section 17 and 20 as the qualified individual and responsible management.

2. On the license application, Matthews answered "No" to the following question: "Has your business, Designated Employee, Qualified individual(s), or Responsible Management been convicted in any jurisdiction of any felony or has your business, Designated Employee, Qualified individual(s), or Responsible Management been convicted in any jurisdiction of any misdemeanor within the last three years?" Matthews affirmed his statements and answers as true and his signature was notarized on the license application on April 5, 2000.

3. Based upon this license application, the Board for Contractors issued Class C license number 2705055976 to Matthews on or about May 18, 2000.

4. On or about October 25, 1979, in the Circuit Court of the County of Pittsylvania, Matthews was convicted of Grand Larceny, a felony, and Statutory Burglary and Grand Larceny, a felony. No appeal is pending and the time for appeal has elapsed.

5. On or about May 14, 1981, in the Circuit Court of the County of Pittsylvania, Matthews was convicted of Rape, a felony, and Sodomy without force, a felony. No appeal is pending and the time for appeal has elapsed.

Conclusion and Recommendation

Count 1: <u>18 VAC 50-22-260(B)(2) (Effective May 1, 1999)</u>

Failure by Matthews to disclose the felony convictions on his license application received by the Board for Contractors is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(2). Therefore, I recommend a monetary penalty of $500.00 be imposed.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-055976 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: CHRISTOPHER MARK WILLIAMSON
APPLICATION FOR CLASS A CONTRACTOR'S LICENSE

FILE NUMBER: 2003-03432

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Christopher Mark Williamson (Williamson) on July 7, 2003. The following individuals participated at the conference: Christopher Mark Williamson, Applicant; Franklin Reynolds, Esquire, Attorney for Applicant; Jennifer Kazzie; Staff Member; and David O. Harris, Sr., presiding Board Member.

Summation of Facts

1. Williamson applied for a Class A Contractor's license on or about May 1, 2003, and disclosed criminal conviction(s).

2. On or about June 9, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

3. During the IFF, Williamson stated that he had been building two houses on property which he owned. When he was informed that he could only sell one house during an eighteen month period, he immediately stopped the process of selling the second house, waiting to complete the application process and become licensed.

4. During the IFF, favorable letters of recommendation were introduced on behalf of Williamson from Captain Daniel McEathron, with the Warren County Sheriff's Office, Donald F. Poe, Owner of Jason Construction Incorporated, Greg Sasser, Vice President of Virginia Savings Bank, Robert J. Lane, President of DLW Contracting, Inc., Stephen and Sarah Summa, Thomas E. Showers, Robert J. Creekmur, and Dickson and Penny Schmoyer.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Williamson was convicted of Distribute Cocaine and Distribute Marihuana.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Williamson's convictions occurred over eight years ago and he has had no further

criminal charges or convictions since that time. Based upon his testimony at the IFF, it does not appear that Williamson is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the record, it does not appear that granting Williamson a contractor's license will encourage any criminal activity. He has already been working in the contracting field for the past several years.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Due to the age of the crimes and Williamson's actions since the convictions, I do not feel the convictions will affect his ability to be a successful contractor.

5. The extent and nature of the person's past criminal activity;

Williamson was convicted of Distribute Cocaine and Distribute Marihuana.

6. The age of the person at the time of the commission of the crime;

Williamson was approximately twenty-five (25) years old at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

It has been approximately eight (8) years since the criminal activity concluded.

8. The conduct and work activity of the person prior to and following the criminal activity; and

Based on testimony provided at the IFF, Williamson worked as a laborer prior to his conviction. Since the conviction, he has been doing construction work on a full time basis, working for Valley Builders for approximately five years, and doing carpentry work on single family homes.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

While incarcerated, Williamson completed substance abuse programs. During the IFF, Williamson stated that he has no involvement with illegal drugs and he has been in no further trouble, with drugs or otherwise, since the incident in 1995.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Williamson's application for a Class A Contractor's license be approved.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: RICKY D. DEAN
T/A D AND D CONSTRUCTION
LICENSE NUMBER 2705 058913

FILE NUMBER: 2003-00429

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ricky D. Dean, t/a D and D Construction (Dean) on June 26, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David O. Harris, Sr., presiding Board Member. Neither Dean, nor anyone on his behalf, appeared at the IFF.

Background

On August 15, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Shelly J. Kipp (Kipp) regarding a contract entered into with Ricky Dean (Dean), t/a D & D Construction.

On April 5, 2002, Kipp entered into a contract with Dean, in the amount of $8,000.00, to install 38 squares of siding, install new fascia and soffit, and cover trim around windows at 7500 Quail Run Lane, Manassas, Virginia 20109.

Summation of Facts

1. On or about April 10, 2002, Dean started to install the vinyl siding over the existing aluminum siding at 7500 Quail Run Lane, Manassas, Virginia 20109. On or about May 4, 2002, Dean left the job after completing about half of the installation. Dean failed to install the fascia, soffit, and half of the siding.

2. Kipp called Dean on October 29, 2002, November 6, 2002, and November 8, 2002, in an attempt to have the work performed or her money returned. Dean failed to respond to Kipp's calls.

3. On February 14, 2003, Assistant Director Linda J. Boswell, the Board's agent, spoke with Dean by phone. Dean told the Board's agent he was going to complete the job and he would contact Kipp. As of March 31, 2003, Kipp had not heard from Dean since he left the job on May 4, 2002.

4. On or about April 10, 2002, Kipp paid Dean $5,600.00 as a deposit. On or about May 4, 2002, Kipp paid Dean $1,300.00.

5. The contract used by Dean in this transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) the contractor's license number, expiration date, class of license/certification or specialty services.

6. The licensing records of the Board for Contractors were reviewed on September 26, 2000, and revealed Dean was issued Class C Contractor's license number 2705058913.

7. Dean failed to obtain a Class B license to enter into a contract outside of the limits of a Class C license.

8. On or about February 14, 2003, Assistant Director Linda Boswell, the Board's agent, spoke by phone with Dean and requested that Dean produce documents related to Kipp's transaction. Dean agreed to produce the documents. As of March 25, 2003, the Board's agent did not receive the requested documents from Dean.

Conclusion and Recommendation

Count 1: <u>18 VAC 50-22-260(B)(15) (Effective September 1, 2001)</u>

Dean's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Dean's failure to return funds received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Dean's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). I recommend a monetary penalty of $300.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Dean's actions of entering into a contract outside of his license classification is a violation of Board Regulation 18 VAC 50-22-260(B)(27). I recommend a monetary penalty of $1,000.00 be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(12) (Effective January 1, 2003)

Dean's failure to provide the requested documentation to the Board's agent is a violation of Board Regulation 18 VAC 50-22-260(B)(12). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-058913 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: RICKY D. DEAN
T/A D AND D CONSTRUCTION
LICENSE NUMBER 2705 058913

FILE NUMBER: 2003-01905

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ricky D. Dean, t/a D and D Construction (Dean) on June 26, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David O. Harris, Sr., presiding Board Member. Neither Dean, nor anyone on his behalf, appeared at the IFF.

Background

On January 13, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Carol E. Sumner (Sumner) regarding a verbal contract entered into with Ricky Dean (Dean), t/a D & D Construction.

On October 15, 2002, Sumner entered into a verbal agreement with Dean, in the amount of $6,128.91, to obtain a building permit and construct a deck with a handicap ramp and a roof over the deck at 713 Acanthys, Drive, Sandston, Virginia 23150.

Summation of Facts

1. On or about October 17, 2002, Dean commenced the work. Between October 17, 2002, and November 2002, Dean constructed most of the deck and the handicap ramp, but did not began work on the roof.

2. On or about November 2002, Deane left the job. As of March 25, 2003, Dean failed to return to complete the work contracted for, including failing to installing the roof over the deck and all of the concrete supports for the deck post.

3. On October 16, 2002, Sumner paid Dean $2,620.00 by check. On October 17, 2002, Sumner paid Dean $2,448.91 by check.

4. On October 28, 2002, Sumner paid Dean $260.00 by check. On October 29, 2002, Sumner paid Dean $800.00 by check.

5. On or about November 2002, Dean left the job. As of March 25, 2003, Dean failed to return the funds received for work not performed.

6. Prior to commencement of work, Dean failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, signed by all parties.

7. On February 4, 2003, Richard Moore, Henrico County Building Inspector, advised that Dean failed to obtain a permit prior to performing work at 713 Acanthys Drive, Sandston, Virginia.

8. On March 18, 2003, Joseph Green (Green), Henrico County Building Inspector, told Investigator E. Wayne Mozingo, the Board's agent, that Green visited the job site and determined that Section 109.1 of the Uniform Statewide Building Code required a permit for this work.

9. On or about January 23, 2003, Investigator E. Wayne Mozingo, the Board's agent, made a written request to Dean at his address of record 105 Ten Oak Drive, Ashland, Virginia 23005. The Board's agent requested that a response be received by February 7, 2003.

10. On February 10, 2003, the Board's agent spoke with Dean by phone. Dean told the Board's agent that he had received the written request and that he would provide a written response the following week. As of March 25, 2003, the Board's agent did not receive a written response from Dean.

11. In addition, Dean also told the Board's agent during the February 10, 2003 telephone conversation, that he had received the written request for a copy of the written contract used in this transaction and that he would provide a copy of the contract the following week. As of March 25, 2003, the Board's agent did not receive a copy of a written contract for this transaction from Dean.

Conclusion and Recommendation

Count 1: <u>18 VAC 50-22-260(B)(15) (Effective September 1, 2001)</u>

Dean's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 2: <u>18 VAC 50-22-260(B)(16) (Effective September 1, 2001)</u>

Dean's failure to return funds received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(8) (Effective September 1, 2001)

Dean's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, signed by all parties, prior to the commencement of work is a violation of Board Regulation18 VAC 50-22-260(B)(8). I recommend a monetary penalty of $300.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Dean's failure to obtain a permit prior to the commencement of work is a violation of Board Regulation 18 VAC 50-22-260(B)(6). I recommend a monetary penalty of $300.00 be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Dean's failure to respond to an investigator seeking information in the investigation of a complaint filed with the Board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

Count 6: 18 VAC 50-22-260(B)(12) (Effective January 1, 2003)

Dean's failure to produce documentation, upon request, to the Board's agent, is a violation of Board Regulation 18 VAC 50-22-260(B)(12). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC

SUSPENSION OF LICENSE NUMBER 2705-058913 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: RICKY D. DEAN
T/A D AND D CONSTRUCTION
LICENSE NUMBER 2705 058913

FILE NUMBER: 2003-02132

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ricky D. Dean, t/a D and D Construction (Dean) on June 26, 2003. The following individuals participated at the conference: Jeffrey S. McGuinn, Complainant; Jennifer Kazzie, Staff Member; and David O. Harris, Sr., presiding Board Member. Neither Dean, nor anyone on his behalf, appeared at the IFF.

Background

On February 7, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Jeffrey S. McGuinn (McGuinn) regarding a contract entered into with Ricky Dean (Dean), t/a D & D Construction.

On September 15, 2002, McGuinn entered into a contract with Dean, in the amount of $5,700.00, to replace floors and walls, and silver top the roof at 729 Branch Glen Lane, Sandston, Virginia 23150. A second contract was entered for installation of a bathtub.

Summation of Facts

1. On or about September 15, 2002, Dean commenced the work. On January 9, 2003, Dean left the job site and failed to return to complete the work contracted for, including failing to install the tub or finish the floors or walls.

2. On or about September 15, 2002, McGuinn paid Dean $2,300.00 in cash, as a deposit.

3. On or about November 2002, McGuinn paid Dean $1,200.00 by check.

4. On January 9, 2003, Dean left the job site and failed to return to complete the work contracted for, including failing to install the tub or finish the floors or walls.

5. McGuinn called Dean several times (dates unknown) attempting to receive a refund or have the work completed. As of March 25, 2003, Dean failed to return the funds for work not performed.

6. On or about February 10, 2003, Investigator E. Wayne Mozingo, the Board's agent, spoke with Dean by phone. Dean told the Board's agent that he would send in a written response and a copy of the contract used in this transaction the following week.

7. As of March 25, 2003, Dean failed to provide the complete contract as requested in this investigation after promising the Board's agent he would provide the document.

8. As of March 25, 2003, Dean failed to provide a written response as requested in this investigation after promising the Board's agent he would provide a written response.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Dean's failure to complete work contracted to perform is a violation of Board Regulation 18 VAC 50-22-260(B)(15). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Dean's failure to return funds received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(12) (Effective January 1, 2003)

Dean's failure to produce documentation, upon request, to the Board's agent, is a violation of Board Regulation 18 VAC 50-22-260(B)(12). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Dean's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 5, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 058913 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: RICKY D. DEAN
T/A D AND D CONSTRUCTION
LICENSE NUMBER 2705 058913

FILE NUMBER: 2003-02054

Amended Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 5, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ricky D. Dean, t/a D and D Construction (Dean) on June 26, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and David O. Harris, Sr., presiding Board Member. Neither Dean, nor anyone on his behalf, appeared at the IFF.

The Summary was amended to reflect David O. Harris, Sr. as the presiding Board Member.

Background

On February 3, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from George E. Keeney (Keeney) regarding a verbal contract entered into with Ricky Dean (Dean), t/a D & D Construction.

On August 16, 2002, Keeney entered into a verbal agreement with Dean, in the amount of $628.02, to provide and install two storm doors on Keeney's residence at 108 Round Oak Circle, Ashland, Virginia 23005.

Summation of Facts

1. As of March 25, 2003, Dean failed to perform any of the contracted work.

2. On August 16, 2002, Keeney paid Dean $628.02 in cash. As of March 25, 2003, Dean failed to perform any of the contracted work.

3. Keeney called Dean several times (dates unknown) asking for the return of his money. As of March 25, 2003, Dean failed to return the funds received for work not performed.

4. Dean failed to use a legible written contract clearly specifying the terms and conditions of the work to be performed.

5. On February 10, 2003, Investigator E. Wayne Mozingo, the Board's agent, spoke with Dean by phone. Dean told the Board's agent that he did use a written contract and he would send a copy of the contract used in this transaction the following week. In addition, Dean told the Board's agent that he would send in a written response the following week.

6. As of March 25, 2003, Dean failed to provide a copy of the contract he claimed was used in the transaction.

7. As of March 25, 2003, Dean failed to provide a written response after telling the Board's agent he would do so.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Dean's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Dean's failure to return funds received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16). I recommend a monetary penalty of $1,500.00 and license revocation be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(8) (Effective September 1, 2001)

Dean's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed is a violation of Board Regulation 18 VAC 50-22-260(B)(8). I recommend a monetary penalty of $300.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(12) (Effective January 1, 2003)

Dean's failure to produce documentation, upon request, to the Board's agent, is a violation of Board Regulation 18 VAC 50-22-260(B)(12). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Dean's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13).). I recommend a monetary penalty of $500.00 be imposed for the violation of the regulation.

By:

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David O. Harris, Sr.
Presiding IFF Board Member
Board for Contractors
Date: August 8, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-058913 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: David O. Harris

2. Title: Member, Board for Contractors

3. Agency: Department of Professional and Occupational Regulation

4. Transaction: Informal Fact-Finding Conference on August 5, 2003

5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

August 5, 2003
Date