Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
November 4, 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.

Anthony R. Orange, 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. Prestige Docks Inc. File Number 2003-02019 (Disc)	Philip Politti – R Danny Bowman – C
2. Timothy J. Phipps t/a Westover Construction Associates File Number 2003-01763 (Disc)	None
3. Branscome Construction LLC File Number 2003-02036 (Disc)	None
4. Stacy N. Stanley t/a Colonial Paving Contractors File Number 2003-00991 (Disc)	Betty Mitchell – C
5. Steve A. Holsapple t/a Construction Unlimited File Number 2002-01641 (Disc)	Holsapple – R

6. Pulliam Construction Co Ltd File Number 2002-00802 (Disc)	A.C. Pulliam, Jr. – R A. C. Pulliam, III - W
7. Business Sales Unlimited Inc. t/a Horizon Kitchen & Bath Floor Design File Number 2002-03533 (Disc)	Arthur & Mary Borde - C
8. Business Sales Unlimited Inc. t/a Horizon Kitchen & Bath Floor Design File Number 2002-03425 (Disc)	None
9. Business Sales Unlimited Inc. t/a Horizon Kitchen & Bath Floor Design File Number 2003-01105 (Disc)	None
10. Business Sales Unlimited Inc. t/a Horizon Kitchen & Bath Floor Design File Number 2003-01924 (Disc)	Bruce Taylor - C

The meeting adjourned at 1:45 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: PRESTIGE DOCKS, INC.
LICENSE NUMBER 2705-059661

FILE NUMBER: 2003-02019

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Prestige Docks, Inc., Atn: Philip Poletti on October 1, 2003. The following individuals participated at the conference: Philip Poletti, President of Prestige Docks, Inc., Respondent; Danny Bowman, Complainant (By Phone); Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member.

Summation of Facts

1. On or about January 23, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Brett Marston (Marston), attorney for Danny Bowman (Bowman), regarding a contract entered into with Prestige Docks, Inc. (PDI).

2. On or about November 27, 2001, Bowman entered into a cost plus contract with PDI to construct a boat dock at Bowman's residence at The Waters Edge, Penhook, Virginia. PDI provided an estimate in the amount of $103,122.80, to construct the boat dock.

3. The contract used by PDI in the transaction failed to contain: (a) when the work is to begin and the estimated completion date, (b) statement of the total cost of the contract and any schedule for progress payments, (c) a listing of specified materials and work to be performed, (d) a "plain language" exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) the contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a 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.

4. Between August 13, 2001, and November 27, 2001, Bowman and PDI entered into negotiations for the construction of the dock at Bowman's residence.

5. On or about January 23, 2003, a review of the licensing records of the Board for Contractors revealed PDI was issued a Class B Contractor's license number 2705-059661 on November 21, 2000.

6. PDI failed to obtain a Class A license in order to perform work in excess of the $70,000.00 limit of a Class B license.

7. On or about December 1, 2001, PDI commenced work on the boat dock.

8. Prior to and during construction, PDI made the following changes: number of slips was reduced from three to two, a major section of the roof was eliminated, and the deck in front was rounded off.

9. PDI failed to use written change orders, signed by all parties, for changes to the scope of the work to be performed.

10. On June 24, 2002, Scott Brooks (Brooks) of Structural Integrity Engineering, P.A. and Frederick B. Baxley Jr. (Baxley), P.E., inspected the work performed by PDI to analyze the structural integrity of the boat dock structure and to verify that the changes made to the dock are structurally adequate. In a report dated July 3, 2002, Brooks indicated the following structural issues included, but were not limited to:

Underneath the back of the Circular Loft, there is a 3-2x10 beam spanning left to right that does not have adequate bearing at each end.

Around the perimeter of the Circular Room, the stud wall has been built without a bottom plate under the studs. This condition causes some of the individual studs to bear only on plywood between the 2x10 joists. In order to provide adequate support for the stud wall, you must install 2x6 ladder blocking between the floor joists under the circular wall.

It was noticed that all the LVL beams have been nailed through on one side only. In order to properly support the applied loads, you must nail all LVL beams together with three rows of 16d nails at 16" on center.

It was noticed that several of the ceiling joists have not been (sic) properly attached to their supporting members. Each ceiling joist must be secured to its supporting member with a metal hanger or approved ledger board. It was further noticed that a couple of the LVL Beams that are supporting large amounts of load have not been properly connected together.

At each of the two boat bays, there are a couple of the driven piles that do not provide adequate support for the beams and span over top of them.

At the left side wing platform, the floor joist direction has been changed from the original design. There is now a cantilever situation that is not structurally adequate to support the design floor loads.

11. In a report dated July 16, 2002, Baxley indicated the same structural issues regarding the boat dock constructed by PDI.

12. On or about August 9, 2002, James F. Kinder Jr. (Kinder), P.E., visited the Bowman residence. In a report dated August 16, 2002, Kinder noted that "the dock was modified from its original design configuration by the elimination of the large center boat slip and the addition of a small second floor area in a portion of the circular central area. Also the main dock floor shape was modified in some areas."

13. By letters dated June 15, 2002, and June 17, 2002, PDI agreed to make repairs to the dock; however, Bowman refused to allow PDI to perform any additional work.

Conclusion and Recommendation

Count 1: <u>18 VAC 50-22-260(B)(9) (Effective September 1, 2001)</u>

PDI's failure to comply with the terms of a written contract containing the minimum provisions required is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of $250.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

PDI's actions of practicing in a class of license for which it is not licensed is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend a monetary penalty of $750.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(17) (Effective September 1, 2001)

Based upon a review of the record and testimony provided at the IFF, there is insufficient evidence to support a misrepresentation by PDI regarding their license status. Therefore, I find no regulatory violation.

Count 4: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

PDI's failure to obtain written change orders, which are signed by both Bowman and PDI, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(31). PDI did make an effort to obtain revised plans based on the verbal agreement for changes. No written change orders were ever submitted to the owner, and therefore, I recommend a monetary penalty of $125.00 be imposed.

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

PDI's actions of inadequately constructing Bowman's dock is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend a monetary penalty of $750.00 be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 2705-059661 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: TIMOTHY J. PHIPPS, T/A WESTOVER CONSTRUCTION ASSOCIATES
LICENSE NUMBER 2701-031050

FILE NUMBER: 2003-01763

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Timothy J. Phipps, t/a Westover Construction Associates on October 1, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one appeared on behalf of Timothy J. Phipps, t/a Westover Construction Associates.

Summation of Facts

1. On December 16, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complainant from Harold Lock (Lock) regarding a contract entered into with Timothy J. Phipps (Phipps), t/a Westover Construction Associates.

2. On June 22, 2002, Lock entered into a contract with "Westover Construction," in the amount of $31,084.00, to erect a steel building at 28265 Southampton Parkway, Courtland, Virginia.

3. On December 20, 2002, a review of the licensing records of the Board for Contractors revealed Phipps was issued Class A Contractor's license number 2701-031050 on December 14, 1987.

4. The contract used by Phipps 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, (f) disclosure of cancellation rights of the parties, (h) the contractor's name, address, expiration date, and classifications or specialty services.

5. Phipps failed to operate in the name in which the license was issued.

Conclusion and Recommendation

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

Phipps' failure to use a contract containing the minimum provisions required 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. Imposition of the $200.00 monetary penalty will be waived if Phipps successfully completes the Board's Basic Contracting Licensing Class (remedial education) within 6 months of the entry of the order.

Count 2: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Phipps' failure 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.

By:

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Anthony R. Orange
Presiding IFF Board Member

Board for Contractors
Date: November 4, 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 2701-031050 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: BRANSCOME CONSTRUCTION, LLC
LICENSE NUMBER 2705-045189

FILE NUMBER: 2003-02036

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Branscome Construction, LLC on October 1, 2003, and letter dated October 10, 2003, regarding additional documentation and an Amended IFF Memo. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one appeared on behalf of Branscome Construction, LLC.

Summation of Facts

1. On January 28, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Brian Hudgins (Hudgins) regarding a contract entered into with Branscome Construction, LLC (Branscome).

2. On or about April 5, 2002, Hudgins, owner of The Other Moving Company, entered into a contract with Branscome, in the amount of $94,946.00, to build a mini-storage facility at Route 33, Shackleford, Virginia.

3. On or about April 5, 2002, Hudgins entered into a second contract with Branscome, in the amount of $12,000.00, to erect a metal building at Route 33, Shackleford, Virginia.

4. On or about April 5, 2002, Hudgins entered into a third contract with Branscome, in the amount of $40,000.00, to form two concrete slabs at Route 33, Shackleford, Virginia.

5. On or about April 5, 2002, Hudgins entered into a fourth contract with Branscome, in the amount of $26,300.00, to install a 270 foot deceleration lane at 4041 George Washington Highway, Hayes, Virginia.

6. On July 9, 2003, a review of the licensing records of the Board for Contractors revealed Branscome was issued Class A Contractor's license number 2705-045189 on June 25, 1998, with the building (BLD) classification.

7. Branscome entered into a contract for the installation of a deceleration lane, which required the highway/heavy (H/H) classification.

8. The contract specified the installation of the deceleration lane would "commence on or before May 8, 2002." The contract further specified "Any alteration or deviation from the above specifications,.....will be executed only upon a written change order for same, signed by owner and Contractor . . ."

9. Branscome failed to obtain a written change order for the modification to the original contract.

10. On or about October 8, 2002, Branscome commenced work on the deceleration lane. After October 31, 2002, Branscome failed to return to perform the work contracted for, including the installation of the asphalt sub base, installation of the asphalt topcoat, clean up, and remove barricades.

11. On or about October 9, 2002, Hudgins paid Branscome $7,000.00 as a deposit for the deceleration lane contract.

12. On or about October 17, 2002, Hudgins paid Branscome another $7,000.00 towards the deceleration lane contract.

13. On or about October 8-10, 2002, Toano Contractors, Inc. (Toano), subcontractor for Branscome, dug out the roadway for the deceleration lane. As of June 11, 2003, Branscome failed to pay Toano $3,540.00 for the work they performed on the deceleration lane.

14. On or about August 8, 2003, in the Circuit Court for the County of Gloucester, Hudgins and The Other Moving Company were awarded a $30,149.36 judgment against Branscome.

15. As of October 8, 2003, Branscome failed to satisfy the judgment.

Conclusion and Recommendation

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

Branscome's action of practicing in a classification, specialty service, or class of license for which he is not licensed is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend a monetary penalty of $1,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Branscome's failure to obtain a written change order, signed by both parties, for the deceleration lane is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend a monetary penalty of $200.00 be imposed.

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

Branscome's failure to complete work contracted for is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of $2,500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Branscome's failure to pay Toano Contractors, Inc., a subcontractor, is retention and misapplication of funds 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 revocation of Branscome's license.

Count 5: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Branscome's failure to satisfy a judgment entered by the Circuit Court for the County of Gloucester in favor of Hudgins and The Other Moving Company is in violation of the Board's 2003 Regulation 18 50-22-260(B)(28). Therefore, I recommend a monetary penalty of $1,000.00 be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 2705-045189 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: STACY N. STANLEY
T/A COLONIAL PAVING CONTRACTORS
LICENSE NUMBER 2705 065559

FILE NUMBER: 2003-00991

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stacy N. Stanley, t/a Colonial Paving Contractors (Stanley) on October 1, 2003. The following individuals participated at the conference: Betty Mitchell, Complainant; Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. Neither Stanley, nor anyone on her behalf, appeared at the conference.

Background

On September 23, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Walter J. Mitchell (Mitchell) regarding a contract entered into with Colonial Paving Contractor.

On or about March 4, 2002, Mitchell entered into a contract with Stacy N. Stanley (Stanley), t/a Colonial Paving Contractors, in the amount of $1,400.00, to install an asphalt driveway at Mitchell's residence at 8500 Rubis Terrace, Chesterfield, Virginia.

Summation of Facts

1. The contract used by Stanley in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsection (h) the contractor's class of license/certificate, and classification or specialty services.

2. The contract specified "Any bad or broken areas will be patched free of charge for one year."

3. On or about March 4, 2002, Stanley commenced and completed the driveway.

4. On or about May or June 2002, Mitchell noticed some sunken areas in the driveway installed by Stanley. In August 2002, Mitchell called Stanley and left several messages on an answering machine concerning the sunken areas.

5. On or about August 15, 2002, Mitchell received a call from someone with Colonial Paving Contractors and was told that Christian Stanley would come out and look at the driveway on Saturday, August 17, 2002, at approximately 9:00 a.m. On August 17, 2002, neither Stanley nor anyone from Colonial Paving Contractors came out to look at the driveway.

6. On or about September 4, 2002, and September 19, 2002, Mitchell sent certified letters to Stanley regarding the driveway problems; however, both letters were returned marked "Unclaimed."

7. As of April 22, 2002, Stanley failed to repair the sunken areas in the driveway and honor the warranty.

8. On or about October 23, 2002, Investigator E. Nathan Matthews, the Board's agent, made a written request to Stanley at 6936 Holly Bark Dr., Midlothian, Virginia 23112, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested that the written response and supporting documents be received by November 5, 2002. As of April 22, 2003, Stanley failed to respond to the Board's agent's request.

9. On November 12, November 19, and December 2, 2002, the Board's agent called (804) 639-0608 and left messages on the answering machine for Stanley to call the Board's agent. As of April 22, 2003, the Board's agent did not receive a return call from Stanley.

10. On December 13, 2002, the Board's agent went to the address of record for Stanley at 6936 Holly Bark Dr., Midlothian, Virginia and left a business card on the door requesting Stanley contact the Board's agent. As of April 22, 2003, Stanley failed to contact the Board's agent.

11. On or about December 17, 2003, the Board's agent sent a certified letter to Stanley, requesting Stanley contact the Board's agent. On February 14, 2003, Christian Stanley received and signed for the certified letter. As of April 22, 2003, Stanley failed to contact the Board's agent.

12. On or about December 31, 2002, the Board's agent sent an address certification request form to the United States Postal Service (USPS) regarding Stanley's address at 6936 Holly Bark Dr., Midlothian, Virginia 23112. On or about January 6, 2003, the USPS returned the form indicating that mail is delivered to the address.

13. On February 13, 2003, the Board's agent went to the address of record for Stanley at 6936 Holly Bark Dr., Midlothian, Virginia and left a business card on the door requesting Stanley contact the Board's agent. As of April 22, 2003, Stanley failed to contact the Board's agent.

Conclusion and Recommendation

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

Stanley'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). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(30) (Effective September 1, 2001)

Stanley's failure to repair the sunken areas in the driveway and honor the warranty is a violation of Board Regulation 18 VAC 50-22-260(B)(30). Therefore, I recommend a monetary penalty of $500.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Stanley'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). Therefore, I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 065559 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: STEVE A. HOLSAPPLE
T/A CONSTRUCTION UNLIMITED
LICENSE NUMBER 2705 036319

FILE NUMBER: 2002-01641

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Steve A. Holsapple, t/a Construction Unlimited (Holsapple) on October 1, 2003. The following individuals participated at the conference: Steve A. Holsapple, Respondent; Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member.

Background

On December 29, 1999, Steve A. Holsapple (Holsapple), t/a Construction Unlimited was sent a notice informing him of the Board's minimum requirements to be included in all written contracts.

On or about September 19, 2001, Jo Anne B. Cheatham (Cheatham) and Holsapple entered into a contract, in the amount of $5,400.00, to paint house and shutters, repair soffitt and freeze boards, install new gutters, make repairs to crack on side porch, broken block, handrails on side porch, and storm window at 8688 Brooksville Road, Greenwood, Virginia.

Summation of Facts

1. The contract used by Holsapple 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, (c) listing of specified materials and work to be performed, (d) a plain language exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, (h) the contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a 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.

Conclusion and Recommendation

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

Holsapple'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). Therefore, I recommend a monetary penalty of $250.00 be imposed. In addition, I recommend Holsapple successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 036319 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: PULLIAM CONSTRUCTION CO. LTD.
LICENSE NUMBER 2701 037415

FILE NUMBER: 2002-00802

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Pulliam Construction Co., Ltd. (Pulliam) on October 1, 2003. The following individuals participated at the conference: A. C. Pulliam, Jr., President of Pulliam Construction Co., Ltd.; Albert C. Pulliam, III, Witness; Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member.

Background

On or about February 12, 2001, Joseph and Carol Ferguson (the Fergusons) entered into a cost plus contract with Pulliam Construction Company LTD (Pulliam), in the amount of $228,892.00 plus a manager's fee in the amount of $25,000.00, to manage the construction of a new home at Dews Plantation, Smithfield, Virginia, Isle of Wight County.

Summation of Facts

1. Between July 12, 2001 and November 24, 2001, James Henry (Henry), of Henry Masonry, performed brick masonry work on the Ferguson project. Pulliam's Custom

Transaction Detailed Report reflected Pulliam paid Henry $8,000.00 for the work performed.

2. On October 2, 2002, a review of the licensing records of the Board for Contractors revealed neither James Henry, Henry Masonry, nor Henry Masonry, Inc., were licensed contractors.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(14) (Effective May 1, 1999)

Pulliam's actions of assisting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(14). Therefore, I recommend a monetary penalty of $2,500.00 be imposed. In addition, I recommend A. C. Pulliam, Jr. successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 2701 037415 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: BUSINESS SALES UNLIMITED, INC.
T/A HORIZON KITCHEN & BATH FLOOR DESIGN
LICENSE NUMBER 2705 059392

FILE NUMBER: 2002-03533

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon) on October 2, 2003. The following individuals participated at the conference: Arthur and Mary Borde, Complainants; Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one from Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design appeared at the IFF.

Background

On or about May 28, 2002, the Enforcement Division of the Professional and Occupational Regulation received a written complaint from Mary and Arthur Borde (the Bordes) regarding a contract entered into with Horizon Kitchen.

On or about August 30, 2001, Arthur Borde (Borde) entered into a contract with Business Sales Unlimited Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon), in the amount of $8,900.00, to remodel two bathrooms and install tile at 10141 Turnberry Place, Oakton, Virginia. Borde paid Horizon $5,000.00 as a deposit towards the $8,900.00 contract price.

On May 29, 2002, a review of the licensing records of the Board for Contractors revealed Horizon was issued Class C Contractor's license number 2705059392 on October 3, 2001.

Summation of Facts

1. On or about September 8, 2001, Horizon commenced work, which included installation of plumbing fixtures, cabinets and vanity in the master bathroom and installation of tile in the master and hall bathrooms. Horizon completed approximately 50% of the work.

2. Between September 2001 and January 2002, Borde made numerous attempts to get Horizon to return to complete the work and/or make repairs to the work performed by Horizon. In a letter dated December 3, 2001, Mark Locke (Locke), attorney representing the Bordes, requested Horizon satisfactorily complete the work. As of May 28, 2002, Horizon failed to complete the work contracted for, including plumbing and installation of tile.

3. The Bordes hired another contractor, in the amount of $2,618.00, to repair the work performed by Horizon and complete the project.

Conclusion and Recommendation

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

Horizen's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 059392 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: BUSINESS SALES UNLIMITED, INC.
T/A HORIZON KITCHEN & BATH FLOOR DESIGN
LICENSE NUMBER 2705 059392

FILE NUMBER: 2003-03425

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon) on October 2, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one from Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design appeared at the IFF.

Background

On May 21, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Annette Patrice Isbell (Isbell) regarding a contract entered into with Business Sales Unlimited Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon).

On or about March 6, 2002, Isbell entered into a contract with Horizon, in the amount of $5,950.00, to install tile in two bathrooms and the kitchen area and to provide a tiled countertop at Isbell's residence at 2487 Wheat Meadow Circle, Herndon, Virginia 20171. Isbell paid Horizon $3,500.00 of the $5,950.00 contract.

Summation of Facts

1. The contract used by Horizon failed to contain the minimum provisions required by the Board's 2001 Regulation18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, and (h) the contractor's license number, expiration date, class of license, and classifications or specialty services.

2. The contract specified Horizon would complete the construction by re-fitting doors, satisfactorily complete the grout work, replace improperly cut tiles and tile the kitchen countertop, including provide a new sink and related installation and reinstall two toilets. Horizon failed to complete these contracted items.

3. The contract specified Horizon would complete the construction by re-fitting doors, satisfactorily complete the grout work, replace improperly cut tiles and tile the kitchen countertop, including provide a new sink and related installation and reinstall two toilets. Horizon failed to complete these contracted items.

4. Isbell was required to purchase additional tile for the countertop, the sink and to provide for the installation of these items. Horizon failed to return any monies related to the items that were not completed.

5. A review of the licensing records of the Board for Contractors revealed Horizon was issued Class C Contractor's license number 2705059392 on October 3, 2001.

6. On May 31, 2002, the State Corporation Commission terminated the corporation known as "Business Sales Unlimited, Inc." for failure to file its annual report and pay its annual registration fee. On February 13, 2003, the State Corporation Commission certified the termination is in effect and unresolved.

Conclusion and Recommendation

Count 1: <u>18 VAC 50-22-260(B)(9) (Effective September 1, 2001)</u>

Horizon'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). Therefore, I recommend a monetary penalty of $500.00 be imposed. In addition, I recommend A. Abdelhaq successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

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

Horizon's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

Count 3: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Horizon's retention or misapplication of funds paid, for which work is either not performed or performed only in part is a violation of Board Regulation 18 VAC 50-22-260(B)(16). I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

Count 4: 18 VAC 50-22-210 (Effective September 1, 2001)

Horizon's failure to apply for a new license, on a form provided by the Board, within 30 days of the change in the business entity is a violation of Board Regulation 18 VAC 50-22-210. Therefore, I recommend a monetary penalty of $500.00 be imposed. In addition, I recommend A. Abdelhaq successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 059392 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: BUSINESS SALES UNLIMITED, INC.
T/A HORIZON KITCHEN & BATH FLOOR DESIGN
LICENSE NUMBER 2705 059392

FILE NUMBER: 2003-01105

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon) on October 2, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one from Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design appeared at the IFF.

Background

On October 7, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Michael Raczka (Raczka) regarding a contract entered into with Business Sales Limited Inc., t/a Horizon Kitchen and Bath Floor Design (Horizon).

On or about May 28, 2002, Raczka entered into a contract with Horizon, in the amount of $4000.00, for materials and installation of sub-flooring, tile and grout and 4 thresholds in the kitchen area, the bathroom and two closets at 8463 Monarch Court, Annandale, Virginia 22003.

Summation of Facts

1. The contract used by Horizon failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, and (h) the contractor's license number, expiration date, class of license, and classifications or specialty services.

2. Horizon completed the work contracted for. After Horizon installed the tile, the grout and tile came loose within hours of completion.

3. A second contractor hired by Raczka determined that Horizon used substandard materials. Horizon was contacted by Raczka numerous times to fix the problems however the firm failed to respond.

Conclusion and Recommendation

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

Horizon'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). Therefore, I recommend a monetary penalty of $500.00 be imposed. In addition, I recommend A. Abdelhaq successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Horizon's failure to respond or return to honor the warranty work is a violation of Board Regulation 18 VAC 50-22-260(B)(6) (Effective September 1, 2001). Therefore, I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 059392 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: BUSINESS SALES UNLIMITED, INC.
T/A HORIZON KITCHEN & BATH FLOOR DESIGN
LICENSE NUMBER 2705 059392

FILE NUMBER: 2003-01924

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on November 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design (Horizon) on October 2, 2003. The following individuals participated at the conference: Bruce Taylor, Complainant; Jennifer Kazzie, Staff Member; and Anthony R. Orange, Presiding Board Member. No one from Business Sales Unlimited, Inc., t/a Horizon Kitchen & Bath Floor Design 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 Bruce Taylor (Taylor) regarding a contract entered into with Business Sales Unlimited Inc., t/a Horizon Kitchen and Bath Floor Design (Horizon).

On or about February 7, 2002, Taylor entered into a contract with Horizon, in the amount of $3,135.00, for installation of sub-flooring, tile and grout, and thresholds in the kitchen area and bathrooms at 229 Applegate Drive, Sterling, Virginia 20164. Taylor paid Horizon $2,650.00 towards the contract.

Summation of Facts

1. The contract used by Horizon failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, and (h) the contractor's license number, expiration date, class of license, and classifications or specialty services.

2. In February 2002, Horizon completed the work. After completion, the grout and tile came loose.

3. Taylor contacted Horizon numerous times to fix the problems. Horizon failed to respond or return to honor warranty work.

Conclusion and Recommendation

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

Horizon's failure to make use of a legible written contract that contains all provisions specified in Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a

monetary penalty of $500.00 be imposed. In addition, I recommend A. Abdelhaq successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001

Horizon's failure to respond or return to honor the warranty work is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of $2,500.00 and license revocation be imposed.

By:

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Anthony R. Orange
Presiding IFF Board Member
Board for Contractors
Date: November 4, 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 059392 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: Anthony R. Orange

2. Title: Member, Board for Contractors

3. Agency: Department of Professional and Occupational Regulation

4. Transaction: Informal Fact-Finding Conference on November 4, 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:
I.B.E.W LOCAL UNION 666

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

Signature

11-4-03
Date