

BOARD FOR CONTRACTORS BOARD MEETING

APPROVED MINUTES

The Board for Contractors met on Tuesday, **October 29, 2019** at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The members indicated below were present. Each of the other member's present was qualified to vote, except where a specific reason for disqualification is stated. There are sixteen (16) members on this board, in which nine (9) constitutes a quorum pursuant to §54.1-1102.

Herbert "Jack" Dyer, Jr, Chairman
James Oliver, Vice Chairman
Vance Ayres
Jeffrey Hux
Michael Redifer
Christopher Plummer
Donald Groh
Shawn Mitchell
Wiley "Bif" Johnson
Deborah Tomlin

Board member(s) absent from the meeting:

Gene Magruder
Sheila Bynum-Coleman
E.G. Rudy Middleton
Caitlin King
Jason "Jake" Trenary
John David O'Dell

Joshua Laws, Board Counsel was present at the meeting.

Staff members present for all or part of the meeting was:

Mary Broz-Vaughan, Director
Eric L. Olson, Executive Director
Marjorie King, Board Administrator
Adrienne Mayo, Board Administrator
Stephanie Keuther, Administrative Assistant
Jacqueline Harris, Administrative Assistant/Compliance Specialist

1. **Chairman, Dyer** called the October 29, 2019 Board for Contractors Meeting to order at 9:12A.M.
Chairman, Dyer declared a quorum of board members are in attendance.

**Call
To Order**

2. **Mr. Oliver** made a motion seconded by **Mr. Redifer** to adopt the Agenda of October 29, 2019.

**Approval of the
Agenda**

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

3. **Mr. Oliver** made a motion seconded by **Mr. Redifer** to approve the Minutes of September 24, 2019 Board for Contractors Meeting as presented.

**Approval of
Minutes**

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

4b. **Chairman, Dyer** opened the Public Comment section of the meeting.

**Public Comment
Period**

Al Lilley sent in public comment by email –

"I am writing to express my distress at the way DPOR responded to the case brought before it by Ms. Papadopoulos. I was a Class A general contractor in Virginia for close to 30 years. I worked in code compliance for more than 10 years and hold a CBO certification. When I see cases such as this, where the contractor knowingly performs work without a contract or a permit, I have to find DPOR complicit in this behavior when the punishment is so minimal. It is my understanding that the contractor has been in possession of a Class A license for a number of years. I find it inconceivable that he would be let off so easily. If there is no accountability for this behavior, you can be sure it will likely continue. This not only reflects poorly on DPOR, but the building profession in general. Most of the building officials that I knew were in agreement that it was a waste of time to file a grievance with DPOR. Please give some thought to what I've said"

Sharon Ryan sent in public comment by email –

*"Dear Governor,
It concerns me as a Virginia citizen that DPOR does not enforce regulations. My neighbor Irene Papadopoulos had a horrible experience with a dishonest, disrespectful General Contractor, Danny Morris, who has no regard for others. If this happened to me who has serious health issues or other elderly persons who have no other resources, I would have been homeless. I wouldn't even know to contact DPOR. Virginia is supposed to protect us but it is not doing that if it lets licensed professionals get away with things like this. DPOR needs to do its job and regulate, not just collect fees."*

With no one else wishing to come forward Chairman, Dyer closed the Public Comment section.

Item 5. RF Prima Facie, RF and Licensing Case Files

**Recovery Fund
Prima Facie
Case Files**

Prima Facie

In the matter of Recovery Fund File Number 2020-00535 Geoffrey Bennett (Claimant) and Del Mar Construction (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter and the meeting notice.

**File Number
2020-00535
Geoffrey Bennett
(Claimant)**

Geoffrey Bennett (Claimant) did not attend the Board meeting in person or by counsel or by any other qualified representative.

After discussion motion was made by Mr. Oliver, and seconded by Mr. Hux That upon review of the file the Board was not able to verify the claim amount and determine if the contractor exhibited improper or dishonest conduct. For that reason, the Board voted to remand the file to the Adjudication Section for the purposes of convening an Informal Fact Finding Conference to determine the amount of actual monetary loss and improper or dishonest conduct.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2020-00594, Palma Spencer (Claimant) and James Minton (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter and the meeting notice.

**File Number
2020-00594
Palma Spencer
(Claimant)**

Palma Spencer (Claimant) did not attend the Board meeting in person or by counsel or by any other qualified representative.

After discussion Mr. Oliver made a motion seconded by Mr. Hux to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$7,499.00. Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2020-00612 Charles & Sara Glover (Claimants) and Home Design Elements LLC (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter and the meeting notice.

File Number
2020-00612
Charles & Sara
Glover
(Claimants)

Charles & Sara Glover (Claimants) did not attend the Board meeting in person or by counsel or by any other qualified representative.

After discussion a motion was made by Mr. Oliver, and seconded by Mr. Hux to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$20,000.00 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2020-00674, James & Kimberly Gould (Claimants) and JAV Remodeling Inc. (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter and the meeting notice.

File Number
2020-00674
James &
Kimberly Gould
(Claimants)

James & Kimberly Gould (Claimants) did not attend the Board meeting in person or by counsel or by any other qualified representative.

After discussion a motion was made by Mr. Oliver, and seconded by Ms. Tomlin That upon review of the file the Board was not able to determine if the requirement to conduct debtor's interrogatories was attempted or met. For that reason, the Board voted to remand the file to the Adjudication Section for the purposes of convening an Informal Fact Finding Conference to obtain information about debtor's interrogatories.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

Recovery Fund Case Files

Recovery Fund Case Files

In the matter of Recovery Fund File Number 2019-01199, Mark Long, (Claimant) and Around the Clock Chimneys and Roofing LLC (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-01199
Mark Long
(Claimant)

Presiding officer Mr. Trenary, was not present did not participate in the discussion and did not vote.

Mark Long (Claimant) Attended the Board meeting in person and disagrees with the recommendation. Mr. Long feels the claim amount should include interest, time, and harassment endured.

Mr. Oliver explained the Board does not have the statutory authority to include interest, time, and any harassment endured.

A motion was made by Mr. Oliver, and seconded by Mr. Hux to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$3,094.00 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2019-01417, Susan Williams, (Claimant) and Randall Brush t/a RBS Services (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-01417
Susan Williams
(Claimant)

Presiding officer Mr. Trenary, was not present did not participate in the discussion and did not vote.

Susan Williams (Claimant) did not attend the Board meeting in person or by counsel or by any other qualified representative.

A motion was made by Mr. Oliver, and seconded by Ms. Tomlin to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$20,000.00 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2019-02529, Joshua Allen, (Claimant) and Arthur Johnson t/a New Look Construction (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-02529
Joshua Allen
(Claimant)

Presiding officer Mr. Trenary, was not present did not participate in the discussion and did not vote.

Joshua Allen (Claimant) Attended the Board meeting in person and disagrees with the amount of the

recommendation.

A motion was made by Mr. Redifer, and seconded by Mr. Oliver to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$1,940.00 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 9-1-0. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** Dyer **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2019-03109, Lee Chapman, (Claimant) and RTB Construction LLC (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-03109
Lee Chapman
(Claimant)

Presiding officer Mr. Trenary, was not present did not participate in the discussion and did not vote.

Lee Chapman (Claimant) did not attend the Board meeting in person or by counsel or by any other qualified representative.

A motion was made by Mr. Oliver, and seconded by Mr. Dyer to approve the claim, but reduce the recommended claim amount of \$2,517.00 to \$1,470.15 removing the finance charge of \$1,134.85 as it is not eligible for reimbursement from the fund, and include the \$88.00 incurred for the interrogatory court costs. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$1,470.15 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2019-01788, Nahid Momenian, (Claimant) Unity Building LLC (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-01788
Nahid Momenian
(Claimant)

Presiding officer Mr. Oliver, was not present did not participate in the discussion and did not vote.

Nahid Momenian (Claimant) Attended the Board meeting in person and agrees with the recommendation.

A motion was made by Mr. Redifer, and seconded by Mr. Hux to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid

in the amount of \$20,000.00 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Recovery Fund File Number 2019-02725, Dashaun Howard, (Claimant) and Steven Thomas Winfree and Danielle Erika Ingram t/a Freestyle Pools-Spa-Waterfall (Regulant); the board adopts the claim review, which contains the facts regarding the recovery fund claim in this matter.

File Number
2019-02725
Dashaun Howard
(Claimant)

Presiding officer Mr. Oliver, was not present did not participate in the discussion and did not vote.

Dashaun Howard (Claimant) did not attend the Board meeting in person or by counsel or by any other qualified representative.

A motion was made by Mr. Redifer, and seconded by Ms. Tomlin to adopt the claim review which contains the facts regarding the recovery fund claim in this matter, and to adopt the Recommendation. The Claim Review and Recommendation are incorporated as a part of the Order. The board finds substantial evidence that the Claim does meet the statutory provisions for reimbursement. The Board orders that this claim be paid in the amount of \$18,483.82 Pursuant to 54.1-1123 (B), payments may be reduced on a prorated basis based upon the number of claims received.

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

License Case File

License Case Files

In the matter of License Application File Number 2019-03115, Andrew Lee Pauley, the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Summary of the Informal Fact-Finding Conference.

File Number
2019-03115
Andrew Lee
Pauley

Andrew Lee Pauley (applicant) participated in the Informal Fact Finding Conference.

Andrew Lee Pauley (applicant) did not appear at the Board meeting in person by counsel or by any other qualified person.

After discussion, a motion was made by Mr. Tomlin and seconded by Mr. Oliver to approve the application for Journeyman – ELE license based upon the record and the recommendation.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King,

Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2019-03119, O.D.C. Enterprises Inc., the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Amended Summary of the Informal Fact-Finding Conference.

File Number
2019-03119
O.D.C.
Enterprises Inc.

Terrace O'Donnell on behalf of O.D.C. Enterprises Inc. participated in the Informal Fact Finding Conference.

Terrace O'Donnell on behalf of O.D.C. Enterprises Inc. (applicant) Attended the Board meeting in person and agrees with the recommendation.

Mr. Redifer recommended to amend the recommendation to include Remedial Education be taken within 90 days.

After discussion, a motion was made by Ms. Tomlin and seconded by Mr. Oliver to approve the application for a Class (A) license with the amended recommendation that the Remedial Education class be taken within 90 days.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2020-00171, Edward Ross Cash t/a W.E. Get Ur Done Enterprises, the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Summary of the Informal Fact-Finding Conference.

File Number
2020-00171
Edward Ross
Cash t/a W.E. Get
Ur Done
Enterprises

Edward Ross Cash t/a W.E. Get Ur Done Enterprises (applicant) participated in the Informal Fact-Finding Conference.

Edward Ross Cash t/a W.E. Get Ur Done Enterprises (applicant) did not appear at the Board meeting in person by counsel or by any other qualified person.

After discussion, a motion was made by Mr. Tomlin and seconded by Mr. Redifer to deny the application for Class C License based upon the record and the recommendation.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2020-00172, Godfrey and Sons LLC t/a Godfrey and Sons HVAC. The Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Summary of the Informal Fact-Finding Conference.

File Number
2020-00172
Godfrey and Sons
LLC t/a Godfrey

Joshua Godfrey on behalf of Godfrey and Sons LLC t/a Godfrey and Sons HVAC participated in the Informal Fact-Finding Conference.

and Sons HVAC

Joshua Godfrey on behalf of Godfrey and Sons LLC t/a Godfrey and Sons HVAC (Applicant) Attended the Board meeting in person and agrees with the recommendation.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Dyer to amend the recommendation and deny the application for Class C –License based upon the relationship of the crime to the purpose for requiring a license to engage in the occupation, and the extent and nature of the persons past criminal activity.

The motion was approved with a vote of 8-2-0. Ayes: Dyer, Oliver, Redifer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** Ayres and Plummer **Abstain:** None **Absent:** O’Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2020-00230, Justin Michael Davis, the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Amended Summary of the Informal Fact-Finding Conference.

File Number
2020-00230
Justin
Michael Davis

Justin Michael Davis (Applicant) participated in the Informal Fact Finding Conference by telephone.

Justin Michael Davis (Applicant) did not appear at the Board meeting in person by counsel or by any other qualified person.

A motion was made by Mr. Oliver and seconded by Mr. Hux to approve the application for Journeyman – ELE based upon the record and the recommendation.

The motion was approved with a vote of 9-1-0. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** Dyer **Abstain:** None **Absent:** O’Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2020-00233, Michael P. Hopkins t/a Better Nest Homes, the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Summary of the Informal Fact-Finding Conference.

File Number
2020-00233
Michael P.
Hopkins t/a Better
Nest Homes

Michael P. Hopkins t/a Better Nest Homes (Applicant) participated in the Informal Fact Finding Conference.

Michael P. Hopkins t/a Better Nest Homes (Applicant) did not appear at the Board meeting in person by counsel or by any other qualified person.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Ayres to amend the recommendation and deny the application for Class C –License based upon the relationship of the crime to the purpose for requiring a license to engage in the occupation, and the extent and nature of the persons past criminal activity.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O’Dell, Trenary, Middleton, King,

Bynum-Coleman, and Magruder.

In the matter of License Application File Number 2020-00239, Capital Glass Company, the Board members reviewed the record, which consisted of the application file, transcript and exhibits, and Summary of the Informal Fact-Finding Conference.

File Number
2020-00239
Capital Glass
Company

Presiding officer Mr. Redifer, was not present did not participate in the discussion and did not vote.

Sayed Wali (Applicant) and Christopher Malone (Counsel) on behave of Capital Glass Company participated in the Informal Fact-Finding Conference.

Sayed Wali (Applicant) and Christopher Malone (Counsel) on behave of Capital Glass Company Attended the Board meeting in person and agrees with the recommendation.

A motion was made by Mr. Oliver and seconded by Ms. Tomlin to approve the application for Class (A) License based upon the record and the recommendation.

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Redifer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

Recess

Chairman, Dyer called a brief recess at 10:15AM
Chairman, Dyer called the meeting back to order at 10:20AM

Recess

6. DISCIPLINARY CASES & RATIFICATION OF CONSENT ORDERS

DISCIPLINARY
CASES

DISCIPLINARY CASES

In the matter of Disciplinary File Number 2017-03117 California Builders Inc., the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative. This case was continued at the request of the respondent prior to the September 24, 2019 meeting.

File Number
2017-03117
California
Builders Inc.

Presiding officer Mr. Dyer was not present did not participate in the discussion and did not vote.

Paul Chretien on behalf of California Builders (Regulant) participated in the Informal Fact-Finding Conference.

California Builders (Regulant) did not appear at the Board meeting in person by counsel or by any other

qualified person.

Robert Allen (Counsel) emailed a handout to the Board for consideration at the Board for Contractors Meeting on October 29, 2019.

October 25, 2019

BY EMAIL ONLY

California
Builders
Inc./Handout

Eric L. Olson, Executive Director
Board for Contractors
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233
Email: eric.olson@dpor.virginia.gov

RE: California Builders, Inc.
File No.: 2017-03177
License No.: 2705100075

Dear Mr. Olson:

This firm represents California Builders, Inc. ("California Builders") in the above-referenced disciplinary proceeding. I am writing with a proposal from California Builders to resolve the matter which is scheduled for a hearing before the Board for Contractors on October 29, 2019.

California Builders has held a Class A Contractor license since 2006, with Commercial and Residential Building Contractor Classifications, and its Responsible Manager is Paul Chretien ("Mr. Chretien"). This matter arises from a residential construction project that involved an addition for David and Irma Mentzer (the "Mentzers"). This proceeding involves five counts, but I do not intend to address Counts 1-4 because California Builders and Mr. Chretien are willing to take full responsibility for the violations and accept the recommendations dated August 7, 2019 of Herbert "Jack Dyer, Presiding Board Member. However, I do wish to address Count 5 and propose an alternative discipline that does not include revocation.

Count 5 involves issues related to the excavation and stockpiling of dirt on the Mentzer job site. Initially, it was believed that the land disturbance activities associated with the project would not require an approved grading plan. Whether a grading plan was required is unclear to me, but that is not important at this point in this proceeding. Count 5 asserts a violation of Board Regulation 18 Va. Admin. Code § 50-22-260.B.6 based upon an alleged failure by California Builders to abate a Notice of Violation relating the excavation. Section 50-22-260.B.6 prohibits "[m]isconduct or incompetence in the practice of contracting or residential building energy analyses." As noted in the Summary of Informal Fact-Finding Conference ("Summary"), California Builders was engaged primarily in second-story additions and had

not done a "bump-out" project involving an excavation since 2006. *See* Summary, at 5. In response to the Notice of Violation,

Eric L. Olson, Executive Director
Board for Contractors
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California Builders, Inc.// File No.: 2017-03177

California Builders stopped excavation, put up silt fencing, and seeded and strawed the areas. *See* Summary, at 8. The County maintains that the violation was not corrected, but it must be noted that around the same time California Builders was experiencing difficulties with the Mentzers, including non-payment (bounced checks) and my client was eventually kicked off of the job. California Builders was forced to file a mechanic's lien for non-payment and litigation ensued, which was amicably settled. As part of the settlement, the Mentzers agreed to settle all differences they had regarding the project. *See* enclosed Settlement Agreement and Release.

The Summary recites that at the hearing Mr. Chretien placed responsibility for his actions on the Mentzers and that was found to be an aggravating circumstance. If Mr. Chretien was perceived that way, it is important to note that he takes full responsibility for his actions. At the time, he also took responsibility by installing silt fence, reseeding and otherwise attempting to respond to the Notice of Violation to the extent possible given his relationship with the homeowners. The settlement reached with the Mentzers also involves an acceptance of responsibility. Mr. Chretien attempted to represent himself in the Fact-Finding Conference which is a difficult task. I respectfully submit that any discipline imposed in this case should be based only on underlying facts. Mr. Chretien's demeanor at the hearing, even if found to be inappropriate, cannot support a violation of 18 Va. Admin. Code§ 50-22-260.B.6 because the regulation only applies to actions that constitute misconduct or incompetence in the practice of contracting. Likewise, Mr. Chretien's actions in the hearing cannot constitute aggravating circumstances with regard to a violation of 18 Va. Admin. Code§ 50-22-260.B.6.

If the facts support a finding of misconduct or incompetence, we ask that the Board give due consideration to California Builders' inexperience in excavation work and the length of the company's licensure without similar complaints or disciplinary actions. Mr. Chretien requests an opportunity to learn from this project and continuing contracting. Instead of a revocation, California Builders proposes a substantial fine of \$1,000 and remedial education in response to Count 5.

Please find enclosed a proposed Consent Order endorsed by Mr. Chretien on behalf of California Builders. My client hopes that this proposal will be accepted so that he may learn from this matter and continue as a licensed contractor. Please provide copies of this correspondence to the Board members in advance of the hearing.

Eric L. Olson, Executive Director
Board for Contractors
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California Builders, Inc.// File No.: 2017-03177

Thank you for your assistance with this matter. Should you have any questions or concerns, please feel free to contact me.

Very truly yours,



Robert J. Allen

Enclosures

cc: Paul Chretien (*via email*)

5413 Patterson Avenue, Suite 201, Post Office Box 17094, Richmond, Virginia 23226
Tel.: (804) 447-7234 | www.thorsenallen.com

After discussion a motion was made by Mr. Mitchell and seconded by Mr. Hux to adopt the Revised Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary, in part. The Board found that the violation of Count 5 does not rise to the level necessary for license revocation, and the Board also amended the monetary penalty for Count 5 from \$800.00 to \$1,000.00. The Revised Report of Findings and the Summary are incorporated as part of this Order.

The Board finds substantial evidence that California Builders Inc. violated the following:

- Count 1: 18 VAC 50-22-260. B.9**
- Count 2: 18 VAC 50-22-260.B.17**
- Count 3: 18 VAC 50-22-260.B.26**
- Count 4: 18 VAC 50-22-260.B.31**
- Count 5: 18 VAC 50-22-260.B.6**

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Dyer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Hux and seconded by Ms. Tomlin to impose the following sanctions:

- Count 1: \$400.00 And Remedial Education**

Count 2: \$1,350.00 And Remedial Education
Count 3: \$650.00 And Remedial Education
Count 4: \$400.00 And Remedial Education
Count 5: \$1,000.00 And Remedial Education

Total: \$3,800.00

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. Nays: None Abstain: Dyer Absent: O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-01648, Apex Custom Homes LLC the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative. This case was continued at the September 24, 2019 Board for Contractors Meeting to the October 29, 2019 Meeting at the request of James Campbell (Counsel) on behalf of Apex Custom Homes LLC (Regulant).

File Number
2018-01648
Apex Custom
Homes LLC

Presiding officer's Mr. Dyer was not present did not participate in the discussion and did not vote.

James Campbell (Counsel) and William Prendergast on behalf of Apex Custom Homes LLC (Regulant) and Holly Krauss (Complainant) participated in the Informal Fact-Finding Conference.

James Campbell (Counsel) and Scott Prendergast on behalf of Apex Custom Homes LLC (Regulant) appeared at the Board meeting in person. James Campbell (Counsel) and Scott Prendergast disagrees with the recommendation.

Holly Krauss (Complainant) appeared at the Board meeting in person and disagrees with the facts presented before the Board by Apex Homes LLC.

James Campbell (Counsel) Requested a Formal Hearing.

Joshua Laws, Board Counsel explained the difference in a Formal Hearing and an Informal Fact Finding Conference (IFF). Mr. Laws also stated a Formal Hearing would not be supported.

Prior to the meeting Mr. Campbell mailed a request for a formal hearing to be heard by the Board at the October 29, 2019 meeting.

IN THE COMMONWEALTH OF VIRGINIA BOARD FOR CONTRACTORS

RE: Apex Custom Homes LLC
File Number: 2018-01648
License Number: 2705091827

Apex Custom
Homes LLC
Demand for formal
hearing handout

DEMAND FOR FORMAL HEARING

COME NOW, the Respondent, Apex Custom Homes, LLC, a Virginia limited liability company ("Apex Homes"), by counsel, and, pursuant to Va. Code § 2.2-4020(A), files this Demand for Formal Hearing, and in support thereof states as follows:

I. BACKGROUND

A. Procedural History

1. On June 25, 2019, the Board for Contractors (the "Board") convened an Informal Fact-Finding Conference ("IFF") to consider a Report of Findings submitted by Bonnie L. Plaucher, Investigator, File No. 2018-01648, dated April 30, 2018, as revised May 15, 2018, July 18, 2018, September 24, 2018, and March 13, 2019 (the "Report of Findings").
2. On August 27, 2019, the Board issued a Summary of the IFF and Recommendation (the "Recommendation").
3. At the IFF, Mr. Herbert "Jack" Dyer, the Presiding Board Member, concluded that Apex Homes had violated Chapter 1 (Va. Code § 54.1-100 et seq.) or Chapter 11 (Va. Code § 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia by assisting

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Apex Pools to use its license to obtain a building pennit and that this action is a violation of Board Regulation 18 VAC S0-22-260.B. 18 ("Count I"). Recommendation at 7.

4. Based on this conclusion regarding Count 1, Mr. Dyer recommended a monetary penalty of \$2,000.00 and the death sentence for any general contractor: license revocation. Id.
5. In addition, Mr. Dyer concluded that Apex Homes allowed four unlicensed or improperly licensed contractors or subcontractors to deliver contracting services in violation of 18 VAC S0-22-260.B.29 ("Count 2"), and that Apex Homes did not have a sufficient system in place to ensure it would not use an unlicensed subcontractor in the future. Id. at 8.
6. Based on this conclusions regarding Count 2, Mr. Dyer recommended a monetary penalty of \$6S0.00 per violation, for a total monetary penalty of \$2,600.00, and the imposition of remedial education. Id. at 9. Apex Homes does not oppose the Recommendation regarding Count 2.

B. Factual Background

7. By way of background, this matter began when Paul and Holly Krauss filed a written complaint with the DPOR on December 15, 2017 (the "DPOR Complaint").
8. The DPOR Compl int alleged, among other things, that:

(A) Apex Homes (i) violated 18 VAC-S0-22-260(B)(19) by "allowing its license to be used by Apex Pools (,J 65), (ii) 18 VAC-S0-22-260(8)(20) by "acting as the ostensible licensee for Apex Pools and potentially other unlicensed subcontractors who controlled, directly or indirectly, the performance ofwork to be conducted by Apex [Homes]" (,I66) and (iii) 18 VAC-S0-22-260(B)(29) by "contracting with Apex Pools in the delivery of . services to Paul and Holl Krauss"

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(B) Apex Homes violated 18 VAC-50-22-260(8)(18) by assisting "Apex Pools with violating this chapter, Va. Code § 54.1-111 and Va. Code § 54.1-1115 by helping Apex Pools Contract for and perform work on the Krausses' property even though Apex [Homes] knew Apex Pools was not licensed in the state of Virginia" (l 72);

(C) Apex Homes (i) violated 18 VAC-50-22-260(8)(15) and (16) by "charging the Krausses a pass-through marketing fee of \$54,326 by Creighton Farms but holding those funds for itself and Scott Prendergast" (l 77); (ii) by failing "to complete the Home as required under the Contract" (il 79); (iii) violated 18 VAC-50-22-260(8)(15) by "failing to perform work on the Home in a good and workmanlike manner free of defects as provided for in the contract" and (iv) by "failing to complete the work on the Home within 9 months from the commencement date or issuance of the building permit as required by the Contract" (il 80);

(D) Apex Homes violated 18 VAC-50-22-260(8)(31) by "charging for work that was not authorized by Paul and Holly Krauss and charged as 'extras' work required under the Contract without written change orders reflecting these charges" (il 83); and

(E) Apex Homes violated 18 VAC-50-22-260(8)(9) by charging for items that were not part of a written contract or any written change orders (il 89).
See Exhibit C-1, Krauss Compl. at l 65, 66, 67, 72, 77, 79, 80, 83, and 89.

9. Of these five categories of alleged violations, the Board's Recommendation found a violation, and recommended a penalty against Apex Homes, for only one, to-wit: assisting "Apex Pools to violate Chapter I (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia by allowing its license to be used by Apex Pools to obtain a building permit" in violation of 18 VAC-50-22-260(B)(1 8) (the Recommendation under Count 2 was not based on the text of the Krauss's initial Complaint).

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II. ARGUMENT

10. Mr. Dyer's Recommendation with respect to Count I is based entirely on his conclusion that Apex Homes entered into a contract with Apex Pools to allow Apex Pools to use the license of Apex Homes. For the reasons discussed herein, that conclusion is fundamentally flawed as a matter of fact and law.

11. Mr. Dyer's conclusion that Apex Homes and Apex Pools entered into such a contract is based on a document dated October 9, 2019, which stated "Agreement" and "DRAFT - For Discussion Purposes ONLY" at the top and which was signed by Apex Homes, and Apex Pools (the "Discussion Document"). The Discussion Document was attached to the Report of Findings as "Exhibit No. C-2."

12. At the IFF the evidence was undisputed that, while W. Scott Prendergast signed the Discussion Document on behalf of Apex Homes, he never returned it to Apex Pools or Danny Morgan, the sole member and manager of Apex Pools, and that Apex Homes never communicated its assent to the Discussion Document. See Affidavit of Danny Morgan, dated June 25, 2019 (attesting that he never received a copy of the Discussion Document back from Mr. Prendergast) (produced at the IFF and attached hereto as "Exhibit A").

13. In addition, the evidence presented at the IFF was undisputed that the Discussion Document remained

in the desk drawer of Apex Homes until the day Apex Homes voluntarily produced it in discovery conducted during the course of the Loudoun County Circuit Court case of Krauss, et al. v. Apex Custom Homes, LLC, et al.,

Case No. 109097 (which case remains pending).

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14. This undisputed fact is of critical significant because "[i]t is elementary that mutuality of assent - the meeting of the minds of the parties - is an essential element of all contracts.111 Phillips v. Mazyck, 273 Va. 630, 636 (2007) (quoting Lacey v. Cardwell, 216 Va. 212,223 (1975) (quoting Green's Ex'rs v. Smith, 146 Va. 442,452 (1926))).

15. In addition, "[u]ntil the parties have a distinct intention common to both and without doubt or difference, there is a lack of mutual assent and, therefore, no contract.11 Id. (citing Persinger & Co. v. Larrowe, 252 Va. 404, 408 (1996) (citing Progressive Constr. Co. v. Thumm, 209 Va. 24, 30 (1968))).

16. To determine "whether a party assented to the terms of a contract," a court will look to "that party's words or acts, not from his or her unexpressed state of mind." Id (citing Wells v. Weston, 229 Va. 72, 78 (1985); Lucy v. Zehmer, 196 Va. 493, 503 (1954)).

17. The law "judges of an agreement between two persons exclusively from those expressions of their intentions witch are communicated between them." Lucy v. Zehmer, 196 Va. 493, 503 (1954) (quoting Clark on Contracts, 4 ed.,§ 3, p. 4) (emphasis added).

18. In other words, communication of assent to a bargain requires outward interaction between one party signaling his assent, on one hand, and the other party receiving that assent on the other. Delivery of a signed writing often accomplishes such interaction to establish an outward manifestation or communication of assent. Retaining a signed instrument without delivering it, or communicating that it had been signed, would not accomplish the communication of an intention to be bound.

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19. It is notable that in the case of Phillips v. Mazyck, 273 Va. 630, 636 (2007), the Supreme Court of Virginia held that two parties did not enter into a binding arbitration agreement when one party signed an arbitration agreement, but did not return it. Without returning the signed arbitration agreement; there were "no words or acts" to objectively manifest assent to the terms of the arbitration agreement. Id

20. Turning to the present case, the undisputed facts that Apex Homes signed the Discussion Document, but did, not return it (or otherwise express to Apex Pools a manifestation of assent to the terms of the Discussion Document), establish that it was not a binding legal document under Virginia law.

21. Counsel for Apex Homes made this argument at the IFF, but Mr. Dyer rejected this argument. See (Transcript, pp. 15-16). On this point, Mr. Dyer states in the Recommendation the following:

I strongly disagree with Campbell's claim that the Agreement was not operative. It appears to me that the intent of the Agreement was carried forward in the relationship between Apex and Apex Custom Pools. It was further substantiated when there was consideration given for the pool referral. The Agreement stated that it shall commence on the effective date that the parties agree to the terms contained herein by signature to this Agreement. The Agreement contains the signature of Morgan

dated October 5, 2014, and the signature of Prendergast dated October 10, 2014. Also, the Agreement was never nullified.

Recommendation at 7.

22. Similarly, in response to a point raised by counsel for Apex Homes about the import and impact of the law, Mr. Dyer remarked that he "did not care about the law" (or something to that effect).

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23. The foregoing excerpt from the Recommendation, and the remark of Mr. Dyer (concerning his disregard for the law) demonstrate that Mr. Dyer believed the signature of Apex Homes on the Discussion Document, alone, was conclusive and dispositive to make the document a binding agreement. Mr. Dyer completely ignored the crucial fact that Apex Homes never returned the Discussion Document, nor manifested its assent.

24. In doing so, Mr. Dyer ignores both the well-established principles of Virginia law set forth above, and the undisputed facts that neither Mr. Prendergast nor Apex Homes returned the signed Discussion Document, nor ever manifested assent to it.

25. The record also fails to support any conclusion that a contract between Apex Homes and Apex Pools should be implied.

26. At most, the evidence at the IFF showed that Danny Morgan and Apex Pools used the license of Apex Homes. Both Mr. Morgan and Mr. Prendergast have stated that Mr. Prendergast did not know of or grant permission for Mr. Morgan to use his license. To the contrary, Mr. Prendergast has steadfastly maintained that Danny Morgan used his license without his consent or permission.

27. The evidence at the IFF was undisputed that Apex Homes did not know that Apex Pools was unlicensed when it referred the Krausses to Apex Pools, and the evidence does not support any conclusion otherwise.

28. The conclusion of Mr. Dyer that the Discussion Document formed a binding contract between Apex Homes and Apex Pools demonstrates a clear misunderstanding and

misapplication of Virginia law. *See Phillips v. Marzick*, 273 Va. 630, 636 (2007) (holding

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that a binding contract was not formed when one party signed it, but did not return the signature to the other party).

29. Apex Homes also disputes the jurisdictional authority for the Board to penalize it for "assisting Apex Pools to use its license to obtain a building permit and that this action is a violation of Board Regulation" because the Board's regulation under 18 VAC 50-22-260(B)(18) goes further than the promulgating authority granted to the Board and to DPOR under Chapter 1 (Va. Code § 54.1-100 et seq.) of the Code of Virginia or Chapter 11 (Va. Code § 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia. The General Assembly has outlined various "prohibited acts" in great detail. Had it intended to make "assisting another" to violate one of those acts, it could have done so, but did not. In that sense the Board's Regulation under 18 VAC 50-22-260(B)(18) is "inconsistent" with the organic statute of Va. Code § 54.1-1102.

30. In addition, the Recommendation's proposal of revocation of the license of Apex Homes is unnecessary, excessive, and punitive. Apex Homes and W. Scott Prendergast have been licensed as a Class A General Contractor since 2005. During that time, Apex Homes has had an exemplary record of compliance and has successfully completed nearly 30 multi-million projects. The Recommendation ignores the exemplary compliance and business history of Apex Homes.

31. In addition, the recommended penalty of "revocation" is draconian and excessively punitive. Apex Homes is a Class A General Contractor and is owned by a single individual, Mr. Prendergast. Revocation of its license imposes the "death penalty"

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on that business and extinguishes the only means by which Mr., Prendergast can earn a livelihood. Revocation, therefore, constitutes an excessive and improper punishment.

32. The Recommendation contains no analysis or reasoning in support of "revocation" and, fundamentally, such a recommendation is arbitrary and capricious because it is (a) based on a patent misunderstanding and misapplication of Virginia law; (b) was not supported by substantial evidence; (c) is disproportionate to the offense charged; (d) excessively punitive; and (e) was made without considering or recognizing that Apex Homes has had an exemplary record of compliance for the nearly 14 years it has had a Class A contractor license.

33. According to the Board's website, Mr. Dyer is a '11 Commercial Contractor' and is not described as a practicing attorney. See DPOR, Board for Contractors, available at <http://www.dpor.virginia.gov/Boards/Contractors/> (last accessed Sept. 17, 2019).

34. In addition, the online directory of the Virginia State Bar does not list Mr. Dyer as a member of the Virginia State Bar. See Virginia State Bar, Directory, available at <http://member.vsb.org/attsearch> (last accessed Sept. 17, 2019).

35. Furthermore, there is no indication that Mr. Dyer or the staff of the Board were assisted by counsel at the IFF, and the Recommendation does not appear to be based on the analysis or advice of an attorney. For this reason alone, the Board should conduct a Formal Hearing pursuant to Va. Code § 2.2-4020(A) and enlist the aid and assistance of an experienced attorney.

36. Referring this matter to a Formal Hearing conducted pursuant to Va. Code §

2.2-4020(A) is advisable because Va. Code § 2.2-4024(A) requires that Formal Hearings

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be presided over by a "Hearing Officer" who is in active membership and good standing in the Virginia State Bar. Having the Board be assisted by counsel and having the Formal Hearing be presided over by a Hearing Officer in active membership and good standing in the Virginia State Bar will ensure that the Board adjudicates this matter without committing the profound legal errors on which Mr. Dyer has based his Recommendation. Proceeding in this manner will ensure that the law is followed, that the due process rights of Apex Homes are respected and upheld, that the Board does not impose an arbitrary and capricious punishment and penalty on Apex Homes, and that its decisions are supported by the law and substantial evidence.

III. CONCLUSION

As discussed herein, the Recommendation is based on a profound misunderstanding and misapplication of Virginia law. The Recommendation also ignores the exemplary compliance and business history of Apex Homes and makes a recommendation that will spell a "death sentence" for Apex Homes and will extinguish the livelihood of its sole member and manager, Mr. Scott Prendergast. For this reason, due to the significant legal and factual disputes outlined above and the severe nature of the punishment of revocation recommended by the Recommendation, if the Board declines to grant the Formal Hearing requested herein, Apex Homes requests, pursuant to Va. Code § 2.2-4028, that the Board postpone the effective date of any decision in which it imposes the sanction of "revocation" of its license pending the exhaustion of all appeals to a Circuit Court, and all other higher tribunals.

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WHEREFORE, for the reasons set forth herein, the Respondent, Apex Custom Homes, LLC, a Virginia limited liability company, and W. Scott Prendergast, respectfully request that the Board (a) refer this matter to a Formal Hearing pursuant to Va. Code§ 2.2-4020(A), (b) enlist the aid and assistance of an attorney in active membership and good standing in the Virginia State Bar, or (c) in the alternative, pursuant to Va. Code§ 2.2-4028, if it declines to grant a Formal Hearing as requested herein, that it postpone the effective date of revocation of the license of Apex Homes pending the outcome and exhaustion of all appeals to higher tribunals, and (d) grant such other and further relief as is right and just.

APEX CUSTOM HOMES, LLC,
a Virginia limited liability company

Demand for Formal Hearing



James P. Campbell

By Counsel

James P. Campbell, Esq. (VSB #25097)
Matthew L. Clark, Esq. (VSB #84881)
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Counsel for Respondent

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CERTIFICATE OF SERVICE

Type of Service: First Class and Electronic Mail

Date of Service: September 18, 2019

Persons served and address:

Herbert "Jack" Dyer, Presiding Board Member Commonwealth of Virginia
Board for Contractors, Department of
Professional and Occupational Regulation 9960 Maryland Drive, Suite 400
Richmond, Virginia 23233-1485

Item Served:

Demand for Formal Hearing



James P. Campbell

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EXHIBITA

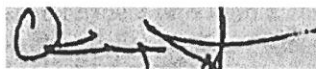
AFFIDAVIT OF DANIEL MORGAN, DATED JUNE 25, 2019

EXHIBIT A

AFFIDAVIT

1, Daniel Max Morgan, am a resident of Virginia, residing In the county of Fairfax. Prior to the business closing, I was the President and Sole Owner of Apex Custom Pools, LLC. I do hereby certify, swear or affirm under the penalty of perjury that I am competent to give the following declaration based on my personal knowledge, and that the following statements are true and correct to the best of my knowledge:

1. I did not ask nor receive permission from Scott Prendergast to use his contractor license on the Krauss project or any other project.
2. Scott Prendergast did not assist me any in way in obtaining permits on the Krauss project or any other project with the use of his license or in any other capacity whatsoever.
3. I prepared the DRAFT Agreement for the transfer of ownership shares in Apex Custom Pools. I never received a signed copy of the DRAFT Agreement back from Scott Prendergast. The Agreement w. ever finalized and was only a DRAFT.


(Sign Name)

Danny Morgan

August 13, 2018

(Date)

(Print Name)

STATE OF Virginia

COUNTY OF Loudoun

Before me, a Notary Public in and for said County and State, hereby certify that Suzanne Powell, personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct. Witness my hand and official seal this the 13 day of Aug, 2018.

After discussion a motion was made by Mr. Redifer seconded by Ms. Tomlin to deny the request for a Formal Hearing.

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Dyer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Redifer and seconded by Mr. Mitchell to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that Apex Custom Homes LLC violated the following:

Count 1: 18 VAC 50-22-260.B.18

Count 2: 18 VAC 50-22-260.B.29

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Dyer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Mitchell and seconded by Mr. Hux to impose the following sanctions:

Count 1: \$2,000.00 And License Revocation

Count 2: \$2,600.00 And Remedial Education (4 violations - \$650.00 per violation)

Total: \$4,600.00

Priors

D-2/2-18-01648 – Apex Custom Homes LLC, license number 2705-091827.

On December 16, 2008, Apex Custom Homes LLC was found in violation of the Board for Contractors Regulations for using a contract with missing elements and failing to use a change order. Final Order 2008-00950 resulted in fines of \$1,200.00 and completion of Remedial Education. Compliance was obtained on March 24, 2009.

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Dyer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-

Coleman, and Magruder.

Mr. Campbell (Counsel) requested the Board has the authority according to § 2.2-4028 to postpone the effective date of revocation in order for his client to appeal.

A motion was made by Mr. Redifer seconded by Ms. Tomlin to grant the 6 month stay of the license contingent on filing for an appeal.

The motion was approved with a vote of 9-0-1. Ayes: Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** Dyer **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-00123, Pinnacle Homes LLC the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Amended Summary of the Informal Fact-Finding Conference of the presiding Board representative.

File Number
2018-00123
Pinnacle Homes
LLC

Presiding officer's Mr. Mitchell and Mr. Hux, were not present did not participate in the discussion and did not vote.

Due to the Board not having a quorum as required by §54.1-105 the Board has deferred this matter and rescheduled it to another Board for Contractors Meeting.

The Board will now review this matter at its December 17, 2019 meeting.

In the matter of Disciplinary File Number 2018-02112, Robert D. Audet t/a Audet Construction the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

File Number
2018-02112
Robert D. Audet
t/a Audet
Construction

Presiding officer Mr. Hux, was not present did not participate in the discussion and did not vote.

Robert D. Audet appeared before the Board on October 29, 2019 and did attend the Informal Fact Finding Conference. Mr. Audet has additional information he would like the Board to consider that was not presented at the Informal Fact Finding Conference. For that reason, the Board voted to remand the file to the Adjudication Section for the purposes of reconvening the Informal Fact Finding Conference to allow Robert D. Audet to provide additional testimony.

A motion was made by Ms. Tomlin seconded by Mr. Oliver to remand the file to the Adjudication Section for the purposes of reconvening the Informal Fact Finding Conference to allow Robert D. Audet to provide additional testimony.

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Johnson, and Tomlin. **Nays:** None **Abstain:** Hux **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-02779, Darrell Kellum Inc. the Board members reviewed

File Number
2018-02779
Darrell Kellum

the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

Inc.

Presiding officer's Mr. Oliver and Mr. Hux, were not present did not participate in the discussion and did not vote.

Due to the Board not having a quorum as required by §54.1-105 the Board has deferred this matter and rescheduled it to another Board for Contractors Meeting.

The Board will now review this matter at its December 17, 2019 meeting.

In the matter of Disciplinary File Number 2018-03167, John Franklin Dickenson t/a Dickenson Builders the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

File Number
2018-03167
John Franklin
Dickenson t/a
Dickenson Builders

Presiding officer Mr. Hux, was not present did not participate in the discussion and did not vote.

John Franklin Dickenson t/a Dickenson Builders (Regulant) nor anyone on its behalf participated in the Informal Fact-Finding Conference.

John Franklin Dickenson t/a Dickenson Builders Respondent, nor anyone on its behalf appeared at the Board meeting.

After discussion a motion was made by Mr. Redifer and seconded by Ms. Tomlin to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that John Franklin Dickenson t/a Dickenson Builders violated the following:

- Count 1: 18 VAC 50-22-260.B.9**
- Count 2: 18 VAC 50-22-260.B.31**
- Count 3: 18 VAC 50-22-260.B.6**
- Count 4: 18 VAC 50-22-260.B.13**

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Redifer, Ayres, Johnson, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Hux **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Redifer and seconded by Ms. Tomlin to impose the following sanctions:

- Count 1: \$500.00 And Remedial Education**
- Count 2: \$400.00 And Remedial Education**
- Count 3: \$800.00 And Remedial Education**
- Count 4: \$1,350.00 And Remedial Education**

Total: \$3,050.00

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Redifer, Ayres, Johnson, Plummer,

Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Hux **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-01047, Steven Lamont Jones the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative. This case was continued at the September 24, 2019 Board for Contractors Meeting to the October 29, 2019 Meeting at the request of Steven Lamont Jones (Regulant).

File Number
2018-01047
Steven Lamont
Jones

Presiding officer Mr. Johnson, was not present did not participate in the discussion and did not vote.

Steven Lamont Jones (Regulant), participated in the Informal Fact-Finding Conference.

Steven Lamont Jones (Regulant), nor anyone on its behalf appeared at the Board meeting.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Redifer to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that Steven Lamont Jones violated the following:

- Count 1: 18 VAC 50-22-230.A**
- Count 2: 18 VAC 50-22-260.B.9**
- Count 3: 18 VAC 50-22-260.B.11**

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Johnson **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Redifer to impose the following sanctions:

- Count 1: \$350.00 And Remedial Education**
- Count 2: \$400.00 And Remedial Education**
- Count 3: \$450.00 And Remedial Education**

Total: \$1,200.00

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Oliver, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Johnson **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-02386, J Paul Cundall t/a Homecrafters the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

File Number
2018-02386
J Paul Cundall t/a
Homecrafters

Presiding officer Mr. Oliver, was not present did not participate in the discussion and did not vote.

J Paul Cundall on behalf of J Paul Cundall t/a Homecrafters (Regulant), participated in the Informal Fact-Finding Conference.

J Paul Cundall t/a Homecrafters (Regulant), nor anyone on its behalf appeared at the Board meeting.

After discussion a motion was made by Mr. Hux and seconded by Mr. Redifer to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that J Paul Cundall t/a Homecrafters violated the following:

- Count 1: 18 VAC 50-22-260.B.8**
- Count 2: 18 VAC 50-22-260.B.27**

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Hux and seconded by Mr. Redifer to impose the following sanctions:

- Count 1: \$200.00 And Remedial Education**
- Count 2: \$350.00 And Remedial Education**

Total: \$550.00

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2018-02911 Novapro LLC t/a Hardwood Floors Unlimited (Fairfax Co) the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

Presiding officer Mr. Oliver, was not present did not participate in the discussion and did not vote.

Mohammad Souri on behalf of Novapro LLC t/a Hardwood Floors Unlimited (Fairfax Co) (Regulant) participated in the Informal Fact-Finding Conference.

Novapro LLC t/a Hardwood Floors Unlimited (Fairfax Co) nor anyone on its behalf appeared at the Board meeting.

After discussion a motion was made by Mr. Hux and seconded by Mr. Redifer to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that Novapro LLC t/a Hardwood Floors Unlimited (Fairfax Co) violated the following:

- Count 1: 18 VAC 50-22-260.B.9**
- Count 2: 18 VAC 50-22-260.B.27**

File Number
2018-02911
Novapro LLC t/a
Hardwood Floors
Unlimited (Fairfax
Co)

Count 3: 18 VAC 50-22-260.B.31

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Hux and seconded by Mr. Redifer to impose the following sanctions:

Count 1: \$200.00 And Remedial Education
Count 2: \$200.00 And Remedial Education
Count 3: \$200.00 And Remedial Education

Total: \$600.00

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Disciplinary File Number 2019-00734 Davadi Builders Inc. the Board members reviewed the record, which consisted of the disciplinary file, transcript, exhibits, and Summary of the Informal Fact-Finding Conference of the presiding Board representative.

File Number
2019-00734
Davadi Builders
Inc.

Presiding officer Mr. Trenary, was not present did not participate in the discussion and did not vote.

Marco Davadi, Karla Davadi, and Walter Linthicum (Witness) on behalf of Davadi Builders Inc.(Regulant) participated in the Informal Fact-Finding Conference.

Marco Davadi (Regulant) and Walter Linthicum (Witness) on behalf of Davadi Builders Inc. appeared at the Board meeting in person and disagrees with the recommendation.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to adopt the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of the Order. The Board finds substantial evidence that Davadi Builders Inc. violated the following:

Count 1: 18 VAC 50-22-260.B.28

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to impose the following sanctions:

Count 1: \$1,750.00 And License Revocation

Total: \$1,750.00

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. Nays: None Abstain: None Absent: Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

Prima Facie Disciplinary Cases

**Prima Facie
Disciplinary
Cases**

In the matter of Prima Facie Disciplinary File Number 2019-01023 Freds Best LLC the Board members reviewed the record, which consisted of the Notice, the Report of Findings, including exhibits, and the Recommendation.

**File Number
2019-01023
Freds Best LLC**

Freds Best LLC did not request an Informal Fact Findings conference.

Freds Best LLC did not appear at the Board meeting in person, by counsel nor by any other qualified representative.

A motion was made by Mr. Oliver and seconded by Mr. Redifer to adopt the report of findings including exhibits and the Recommendation. They are incorporated as part of the Order. The Board adopts the Recommendation. The Board finds substantial evidence that Freds Best LLC violated the following:

- Count 1: 18 VAC 50-22-260.B.15
- Count 2: 18 VAC 50-22-260.B.16
- Count 3: 18 VAC 50-22-210
- Count 4: 18 VAC 50-22-260.B.13

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. Nays: None Abstain: None Absent: Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to impose the following sanctions:

- Count 1: \$1,450.00 And License Revocation
- Count 2: \$1,850.00 And License Revocation
- Count 3: \$550.00 And License Revocation
- Count 4: \$1,350.00 And License Revocation

Total: \$5,200.00

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. Nays: None Abstain: None Absent: Trenary, O'Dell, Middleton,

King, Bynum-Coleman, and Magruder.

In the matter of Prima Facie Disciplinary File Number 2019-01537 Freds Best LLC the Board members reviewed the record, which consisted of the Notice, the Report of Findings, including exhibits, and the Recommendation.

File Number
2019-01537
Freds Best LLC

Freds Best LLC did not request an Informal Fact Findings conference.

Freds Best LLC did not appear at the Board meeting in person, by counsel nor by any other qualified representative.

A motion was made by Mr. Oliver and seconded by Mr. Hux to adopt the report of findings including exhibits and the Recommendation. They are incorporated as part of the Order. The Board adopts the Recommendation. The Board finds substantial evidence that Freds Best LLC violated the following:

Count 1: 18 VAC 50-22-260.B.15
Count 2: 18 VAC 50-22-260.B.16
Count 3: 18 VAC 50-22-260.B.13
Count 4: 18 VAC 50-22-230.B

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to impose the following sanctions:

Count 1: \$1,450.00 And License Revocation
Count 2: \$1,850.00 And License Revocation
Count 3: \$1,350.00 And License Revocation
Count 4: \$650.00 And Remedial Education

Total: \$5,300.00

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Prima Facie Disciplinary File Number 2019-01822 Christine A. Creighton t/a RJC Custom Construction the Board members reviewed the record, which consisted of the Notice, the Report of Findings, including exhibits, and the Recommendation.

File Number
2019-01822
Christine A.
Creighton t/a RJC
Custom
Construction

Christine A. Creighton t/a RJC Custom Construction did not request an Informal Fact Findings conference.

Christine A. Creighton t/a RJC Custom Construction did not appear at the Board meeting in person, by counsel nor by any other qualified representative.

A motion was made by Mr. Oliver and seconded by Mr. Hux to adopt the report of findings including exhibits and the Recommendation. They are incorporated as part of the Order. The Board adopts the Recommendation. The Board finds substantial evidence that Christine A. Creighton t/a RJC Custom Construction violated the following:

- Count 1: 18 VAC 50-22-210**
- Count 2: 18 VAC 50-22-260.B.18**

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

Priors

PF3-3/2019-01822 – Christine A. Creighton t/a RJC Custom Construction, license number 2705-123209. On April 29, 2010, Christine A. Creighton t/a RJC Custom Construction was found in violation of the Board for Contractors Regulations for failure to use a written contract. Compliance was obtained on October 14, 2010

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to impose the following sanctions:

- Count 1: \$550.00 And License Revocation**
- Count 2: \$800.00 And License Revocation**

Total: \$1,350.00

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Prima Facie Disciplinary File Number 2019-02680 Sarah Jones t/a S&S Paving and Seal Coating the Board members reviewed the record, which consisted of the Notice, the Report of Findings, including exhibits, and the Recommendation.

File Number
2019-02680
Sarah Jones t/a
S&S Paving and
Seal Coating

Sarah Jones t/a S&S Paving and Seal Coating did not request an Informal Fact Findings conference.

Sarah Jones t/a S&S Paving and Seal Coating did not appear at the Board meeting in person, by counsel nor by any other qualified representative.

A motion was made by Mr. Oliver and seconded by Mr. Hux to adopt the report of findings including exhibits and the Recommendation. They are incorporated as part of the Order. The Board adopts the Recommendation. The Board finds substantial evidence that Sarah Jones t/a S&S Paving and Seal Coating violated the following:

- Count 1: 18 VAC 50-22-260.B.9.**
- Count 2: 18 VAC 50-22-260.B.27**
- Count 3: 18 VAC 50-22-260B.17**
- Count 4: 18 VAC 50-22-260.B.13**

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux,

Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

After discussion a motion was made by Mr. Oliver and seconded by Mr. Hux to impose the following sanctions:

Count 1: \$400.00 And Remedial Education
Count 2: \$750.00 And License Revocation
Count 3: \$1,350.00 And License Revocation
Count 4: \$1,350.00 And License Revocation

Total: \$3,850.00

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

Consent Orders

Consent Orders

In the matter of Consent Order File Number 2019-00108 TSL Properties LLC the board reviewed the Consent Order as seen and agreed to by Preferred General Contracting Co., Inc.

File Number
2019-00108
TSL Properties
LLC

Todd Pleasants, Responsible Manager for TSL Properties LLC/ L 2705155954 appeared before the Board at its meeting on October 29, 2019 and requested to remove his signature from the Consent Order, and have the Complaint adjudicated at an Informal Fact Finding Conference.

A motion was made by Mr. Oliver and seconded by Mr. Hux to remand the file to the Adjudication Section for the purposes of convening an Informal Fact Finding Conference.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-00693 Homefix Custom Remodeling Corp the board reviewed the Consent Order as seen and agreed to by Homefix Custom Remodeling Corp.

File Number
2019-00693
Homefix Custom
Remodeling Corp

Homefix Custom Remodeling Corp did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Homefix Custom Remodeling Corp, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Homefix Custom Remodeling Corp consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50-22-260.B.9	\$500.00
Count 2:	18 VAC 50-22-260.B.8	\$500.00

Homefix Custom Remodeling Corp agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,150.00

It is noted that a member of Responsible Management for Homefix Custom Remodeling Corp was required to complete Remedial Education pursuant to the terms of the Consent Order entered into on September 11, 2018.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01156 J and M Contracting LLC the board reviewed the Consent Order as seen and agreed to by J and M Contracting LLC.

File Number
2019-01156
J and M
Contracting LLC

J and M Contracting LLC did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein J and M Contracting LLC acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

J and M Contracting LLC consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50-22-260.B.9	\$400.00
Count 2:	18 VAC 50-22-260.B.29	\$700.00

J and M Contracting LLC agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,250.00

Further, for violation of Counts 1 and 2, J and M Contracting LLC agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within Ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01311 Old Dominion Investment & Development Inc. the board reviewed the Consent Order as seen and agreed to by Old Dominion Investment & Development Inc.

File Number
2019-01311
Old Dominion

Old Dominion Investment & Development Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Old Dominion Investment & Development Inc., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Old Dominion Investment & Development Inc. consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50 -22-260.B.9	\$400.00
Count 2:	18 VAC 50-22-260.B.33	\$850.00
Count 3:	18 VAC 50-22-220.A.	\$500.00

Old Dominion Investment & Development Inc. agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,9000.00

Further, for violation of Counts 1 and 2, Old Dominion Investment & Development Inc. agrees to have a member of Responsible Management successfully complete a Board- approved remedial education class within ninety (90) days of the effective date of this Consent Order.

In addition, the Board shall waive imposition of the \$500.00 monetary penalty for Count 3 provided Old Dominion Investment & Development Inc. brings its license into compliance with the requirements of 18 VAC 50-22-220.A in that all officers listed with the Virginia State Corporation Commission must be listed as a Responsible Manager on the license for Old Dominion Investment & Development Inc. If Old Dominion Investment & Development Inc. fails to comply with this condition within thirty (30) days of the effective date of this Order, then the full monetary penalty will be automatically imposed and the license will be suspended until such time as compliance is obtained.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01360 Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips the board reviewed the Consent Order as seen and agreed to by Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips

**File Number
2019-01360
Peter Donohue Jr.
t/a P Donohue
Paving & Tar &
Chips**

Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.8 \$400.00
Count 1: 18 VAC 50-22-260.B.9 \$400.00

Peter Donohue Jr. t/a P Donohue Paving & Tar & Chips agrees to Board costs of **\$150.00**.

Total fines and costs of \$950.00

Further, for violation of Count 1, Peter Donohue Jr agrees to have a member of Responsible Management successfully complete a Board- approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01578 Capital Remodeling Inc. the board reviewed the Consent Order as seen and agreed to by Capital Remodeling Inc.

File Number
2019-01578
Capital
Remodeling Inc.

Capital Remodeling Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Capital Remodeling Inc. acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Capital Remodeling Inc. consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.9 \$200.00

Capital Remodeling Inc. agrees to Board costs of **\$150.00**.

Total fines and costs of \$350.00

Further, for violation of Count 1, Capital Remodeling Inc. agrees to have a member of Responsible Management successfully complete a Board- approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01605 Donald R Fincham t/a Nuway Construction & Remodeling the board reviewed the Consent Order as seen and agreed to by Donald R Fincham t/a Nuway Construction & Remodeling.

File Number
2019-01605
Donald R
Fincham t/a
Nuway
Construction &

Donald R Fincham t/a Nuway Construction & Remodeling did not attend the Board meeting in person by counsel or by any other qualified individual.

Remodeling

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Donald R Fincham t/a Nuway Construction & Remodeling, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Donald R Fincham t/a Nuway Construction & Remodeling consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.8 \$400.00
Count 2: 18 VAC 50-22-260.B.9 \$400.00

Donald R Fincham t/a Nuway Construction & Remodeling agrees to Board costs of **\$150.00**.

Total fines and costs of \$950.00

Further, for violation of Counts 1 and 2, Donald R Fincham agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01653 Woodfin Heating Inc. the board reviewed the Consent Order as seen and agreed to by Woodfin Heating Inc.

File Number
2019-01653
Woodfin Heating
Inc.

Woodfin Heating Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Woodfin Heating Inc., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Woodfin Heating Inc. consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.9 \$400.00
Count 2: 18 VAC 50-22-260.B.33 \$1,700.00 (Two violations at \$850.00 each)

Woodfin Heating Inc. agree to Board costs of **\$150.00**.

Total fines and costs of \$2,250.00

Further, for violation of Counts 1 and 2, Woodfin Heating Inc. agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton,

King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01837 Dave's Diversified Services Inc. the board reviewed the Consent Order as seen and agreed to by Dave's Diversified Services Inc.

File Number
2019-01837
Dave's Diversified
Services Inc.

Dave's Diversified Services Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Dave's Diversified Services Inc., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Dave's Diversified Services Inc. consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50-22-260.B.9	\$400.00
Count 2:	18 VAC 50-22-260.B.31	\$400.00

Dave's Diversified Services Inc. to Board costs of **\$150.00**.

Total fines and costs of \$950.00

Further, for violation of Counts 1 and 2, Dave's Diversified Services Inc. agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01860 Michael Alan Turner the board reviewed the Consent Order as seen and agreed to by Michael Alan Turner.

File Number
2019-01860
Michael Alan
Turner

Michael Alan Turner did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Michael Alan Turner acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Michael Alan Turner consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50-22-260.B.27	\$750.00
Count 2:	18 VAC 50 -22-260.B.33	\$1,700.00 (Two violations at \$850.00 each)

Michael Alan Turner agrees to Board costs of **\$150.00**.

Total fines and costs of \$2,600.00

Further, for violation of Counts 1, and 2, Michael Alan Turner agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-01969 N V Improvements Inc. the board reviewed the Consent Order as seen and agreed to by N V Improvements Inc.

File Number
2019-01969
N V
Improvements
Inc.

N V Improvements Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein N V Improvements Inc., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

N V Improvements Inc. consents to the following violations of the Board's Regulations:

Count 1:	18 VAC 50-22-260.B.33	\$850.00
Count 2:	18 VAC 50-22-260.B.27	\$700.00

N V Improvements Inc. agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,700.00

Further, for violation of Counts 1 and 2, N V Improvements Inc. agrees to successfully complete remedial education within ninety (90) days of the effective date of this Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02001 General Construction LLC the board reviewed the Consent Order as seen and agreed to by General Construction LLC.

File Number
2019-02001
General
Construction LLC

General Construction LLC did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein General Construction LLC acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

General Construction LLC consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.2 \$550.00
Count 2: 18 VAC 50-22-210 \$1,100.00

General Construction LLC agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,800.00

Further, for violation of Counts 1 and 2 General Construction LLC agrees to revocation of its license.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02022 Peter Donohue Jr t/a P Donohue Paving & Tar & Chips the board reviewed the Consent Order as seen and agreed to by Peter Donohue Jr t/a P Donohue Paving & Tar & Chips.

File Number
2019-02022
Peter Donohue Jr
t/a P Donohue
Paving & Tar &
Chips

Peter Donohue Jr t/a P Donohue Paving & Tar & Chips Did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Peter Donohue Jr t/a P Donohue Paving & Tar & Chips, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Peter Donohue Jr t/a P Donohue Paving & Tar & Chips consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.8 \$400.00

Peter Donohue Jr t/a P Donohue Paving & Tar & Chips agree to Board costs of **\$150.00**.

Total fines and costs of \$550.00

Further, for violation of Count 1, Peter Donohue Jr t/a P Donohue Paving & Tar & Chips agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02023 Anita Gayle Pardue t/a Pardue Painting Company the board reviewed the Consent Order as seen and agreed to by Anita Gayle Pardue t/a Pardue Painting Company.

File Number
2019-02023
Anita Gayle
Pardue t/a Pardue
Painting Company

Anita Gayle Pardue t/a Pardue Painting Company did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Anita Gayle Pardue t/a Pardue Painting Company, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Anita Gayle Pardue t/a Pardue Painting Company consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.8 \$400.00

Anita Gayle Pardue t/a Pardue Painting Company agrees to Board costs of **\$150.00**.

Total fines and costs of \$550.00

In addition, for violation of Count 1, Anita Gayle Pardue agrees to provide a copy of her current contract within ninety (90) days of the effective date of this Consent Order. The contract must be in compliance with Board Regulation 18 VAC 50-22-260.8.9. Failure to comply with this condition will result in the automatic suspension of Anita Gayle Pardue's license until such time as compliance is obtained.

Further, for violation of Count 1, Anita Gayle Pardue agrees to have a member of Responsible Management successfully complete a Board- approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02036 Moss Construction Company t/a Moss Home Services (Fairfax Co) the board reviewed the Consent Order as seen and agreed to by Moss Construction Company t/a Moss Home Services (Fairfax Co).

File Number
2019-02036
Moss
Construction
Company t/a Moss
Home Services
(Fairfax Co)

Moss Construction Company t/a Moss Home Services (Fairfax Co) did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Moss Construction Company t/a Moss Home Services (Fairfax Co), acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Moss Construction Company t/a Moss Home Services (Fairfax Co) consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.9 \$600.00

Count 2: 18 VAC 50-22-260.B.15 \$1,400.00

Moss Construction Company t/a Moss Home Services (Fairfax Co) agrees to Board costs of **\$150.00**.

Total fines and costs of \$2,150.00

Further, for violation of Counts 1 and 2, Moss Construction Company t/a Moss Home Services (Fairfax Co) agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02083 Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air the board reviewed the Consent Order as seen and agreed to by Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air

File Number
2019-02083
Hodgesville
Heating & Air Inc.
t/a Hodgesville
Heating & Air

Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-220.A	\$500.00
Count 2: 18 VAC 50-22-260.B.31	\$400.00

Hodgesville Heating & Air Inc. t/a Hodgesville Heating & Air agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,050.00

On June 26, 2019, Hodgesville Heating & Air Inc.'s reported to the Board an addition to Responsible Management. Therefore, the Board waives imposition of the \$500.00 monetary penalty for violation of Count 1.

Further, for violation of Counts 1 and 2, Hodgesville Heating & Air Inc.'s agrees to have a member of Responsible Management successfully complete a Board -approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02089, Junis Frank Morris t/a Frank Morris Builder the board reviewed the Consent Order as seen and agreed to by Junis Frank Morris t/a Frank Morris Builder.

File Number
2019-02089
Junis Frank
Morris t/a Frank
Morris Builder

Junis Frank Morris t/a Frank Morris Builder did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Junis Frank Morris t/a Frank Morris Builder, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Junis Frank Morris t/a Frank Morris Builder consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.29	\$700.00
Count 2: 18 VAC 50-22-260.B.31	\$400.00
Count 3: 18 VAC 50-22-260.B.8	\$400.00
Count 4: 18 VAC 50-22-260.B.33	\$850.00

Junis Frank Morris t/a Frank Morris Builder agrees to Board costs of **\$150.00**.

Total fines and costs of \$2,500.00

Further, for violation of Counts 1-4, Morris agrees to have a member of Responsible Management successfully complete a Board - approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02106 Charles R Harris Jr. the board reviewed the Consent Order as seen and agreed to by Charles R Harris Jr.

File Number
2019-02106
Charles R Harris
Jr.

Charles R Harris Jr. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Charles R Harris Jr., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Charles R Harris Jr. consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.8	\$400.00
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Charles R Harris Jr. agrees to Board costs of **\$150.00**.

Total fines and costs of \$550.00

Further, for violation of Count 1 Charles R Harris Jr. agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02146 J R Wallace Construction Inc. t/a J W Wallace Construction the board reviewed the Consent Order as seen and agreed to by J R Wallace Construction Inc. t/a J W Wallace Construction.

File Number
2019-02146
J R Wallace
Construction Inc.
t/a J W Wallace
Construction

J R Wallace Construction Inc. t/a J W Wallace Construction did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein J R Wallace Construction Inc. t/a J W Wallace Construction, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

J R Wallace Construction Inc. t/a J W Wallace Construction consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.29 \$700.00

J R Wallace Construction Inc. t/a J W Wallace Construction agrees to Board costs of **\$150.00**.

Total fines and costs of \$850.00

Further, for violation of Count 1 J R Wallace Construction Inc. t/a J W Wallace Construction agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02340 Timothy James Brewster t/a Hayland Remodeling the board reviewed the Consent Order as seen and agreed to by Timothy James Brewster t/a Hayland Remodeling.

File Number
2019-02340
Timothy James
Brewster t/a
Hayland
Remodeling

Timothy James Brewster t/a Hayland Remodeling, Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Timothy James Brewster t/a Hayland Remodeling, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Timothy James Brewster t/a Hayland Remodeling consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.9 \$650.00

Count 2: 18 VAC 50-22-260.B.27 \$1,000.00
Count 3: 18 VAC 50-22-260.B.16 \$1,850.00

Timothy James Brewster t/a Hayland Remodeling agrees to Board costs of **\$150.00**.

Total fines and costs of \$3,650.00

Further, for violation of Counts 1, 2 and 3, Timothy James Brewster t/a Hayland Remodeling agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02372, Greenacre Plumbing LLC the board reviewed the Consent Order as seen and agreed to by Greenacre Plumbing LLC.

File Number
2019-02372
Greenacre
Plumbing LLC

Greenacre Plumbing LLC did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Greenacre Plumbing LLC, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Greenacre Plumbing LLC consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.33 \$850.00

Greenacre Plumbing LLC agrees to Board costs of **\$150.00**.

Total fines and costs of \$1,000.00

Further, for violation of Count 1 Greenacre Plumbing LLC agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02851 J Martinez Construction LLC the board reviewed the Consent Order as seen and agreed to by J Martinez Construction LLC.

File Number
2019-02851
J Martinez
Construction LLC

Presiding officer Mr. Oliver, did not participate in the discussion and did not vote.

J Martinez Construction LLC did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein J Martinez Construction LLC, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

J Martinez Construction LLC consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.29 \$0.00

J Martinez Construction LLC agrees to Board costs of **\$150.00**.

Total fines and costs of \$150.00

Further, for violation of Count 1 J Martinez Construction LLC agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 9-0-1. Ayes: Dyer, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** Oliver **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

In the matter of Consent Order File Number 2019-02885 Airo Mechanical LLC the board reviewed the Consent Order as seen and agreed to by Airo Mechanical LLC.

Airo Mechanical LLC did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Airo Mechanical LLC, acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Airo Mechanical LLC consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.29 \$700.00

Airo Mechanical LLC agrees to Board costs of **\$150.00**.

Total fines and costs of \$850.00

Further, for violation of Count 1 Airo Mechanical LLC agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

File Number
2019-02885
Airo Mechanical
LLC

In the matter of Consent Order File Number 2019-02892 Allstate Tower Inc. the board reviewed the Consent Order as seen and agreed to by Allstate Tower Inc.

File Number
2019-02892
Allstate Tower
Inc.

Allstate Tower Inc. did not attend the Board meeting in person by counsel or by any other qualified individual.

A motion was made by Mr. Hux and seconded by Mr. Redifer to ratify the proposed Consent Order offer wherein Allstate Tower Inc., acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings.

Allstate Tower Inc. consents to the following violations of the Board's Regulations:

Count 1: 18 VAC 50-22-260.B.29 \$700.00

Allstate Tower Inc. agrees to Board costs of **\$150.00**.

Total fines and costs of \$850.00

Further, for violation of Count 1, Allstate Tower Inc. agrees to have a member of Responsible Management successfully complete a Board-approved remedial education class within ninety (90) days of the effective date of this Consent Order.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Johnson, Redifer, Ayres, Hux, Plummer, Groh, Mitchell, and Tomlin. **Nays:** None **Abstain:** None **Absent:** Trenary, O'Dell, Middleton, King, Bynum-Coleman, and Magruder.

Approved

7. NEW BUSINESS

NEW BUSINESS

a) **Trisha Henshaw: Onsite Sewage System Policy**

Prior to July 1, 2018, an onsite sewage system installer license from the WWOOSSP Board, along with a construction permit from the Virginia Department of Health, was required to perform certain repairs to an onsite sewage system, including replacement of sewer lines, conveyance lines, distribution boxes, and header lines. While work considered repairs are limited to licensed installers working under a contractor's license with the SDS specialty, licensed onsite sewage system operators perform maintenance on onsite sewage systems and are not required to work under a contractor's license. During the 2018 General Assembly Session, § 32.1-163 of the Health Code was amended to define "maintenance" as follows:

"Maintenance;" means, *unless otherwise provided in local ordinance*, (i) performing adjustments to equipment and controls ~~and~~ or (ii) in-kind replacement of normal wear and tear parts *that do not require a construction permit for adjustment or replacement of the component such as light bulbs, fuses, filters, pumps, motors, sewer lines, conveyance lines, distribution boxes, header lines, or other like components.* Maintenance; includes pumping the tanks or cleaning the building sewer on a periodic basis. ~~Maintenance~~ *Notwithstanding any local ordinance, "maintenance" shall does not include replacement of tanks, drain field piping, ~~distribution boxes~~ subsurface drain fields, or work requiring a construction permit and installer. Unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.*

The definition of "maintenance" in the WWOOSSP Board's Regulations has always tracked to conform to the definition of "maintenance" in the Health Code. Therefore, 18VAC160-40-10 of the WWOOSSP Board's regulations was amended effective September 19, 2018, to reflect the above definition of "maintenance".

With the change in definition, an operator is now permitted to perform replacement of sewer lines, conveyance lines, distribution boxes, and header lines, and a construction permit for repair is no longer required. Keeping in mind an onsite sewage system operator whose work experience is solely performing maintenance on onsite sewage systems would not qualify for a contractor's license, there has been confusion regarding whether the work still requires a contractor's license.

As a result of the above changes to the WWOOSSP Board regulations and Code of Virginia, I request that the Board for Contractors consider adopting guidance that parallels the definition of "maintenance" in 18VAC160-40-10 and § 32.1-163 of the Code of Virginia as it pertains to the type of work that would not require a contractor's license.

Mr. Oliver made a motion seconded by Mr. Hux to adopt the "Maintenance" definition as presented.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

Ms. Johnson informed there would be a 30-day Public Comment session on Town Hall.

b. Free Williams: 2020 Informal Fact Finding Conference Schedule

Mr. Williams provided the Board with Informal Fact Finding Conference dates for the upcoming calendar year 2020.

**2020 Informal Fact
Finding
Conference
Schedule**

Mr. Redifer made a motion seconded by Ms. Tomlin to except the Informal Fact Finding Conference dates as presented.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

c) Education Provider Applications

Applications for proposed education providers and courses were reviewed by the Board recommendations are as follows:

**Education
Provider
Applicants**

Ms. Mayo shared that staff recommends approval for:

Maryland Delaware Water Well Association - 1 classroom CE Water Well Systems Provider course for February 2020

**Maryland
Delaware Water
Well Association**

Motion was made by Mr. Oliver and seconded by Mr. Redifer for approval.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

Ms. Mayo shared that staff recommends approval for:

Virginia Water Well Association – 1 classroom CE Water Well Systems Provider course and 1 classroom vocational CE Water Well Systems Provider course for February 2020.

**Virginia Water
Well Association**

Motion was made by Mr. Oliver and seconded by Mr. Redifer for approval.

The motion was approved with a vote of 10-0-0. Ayes: Dyer, Oliver, Redifer, Ayres, Plummer, Groh, Mitchell, Hux, Johnson, and Tomlin. **Nays:** None **Abstain:** None **Absent:** O'Dell, Trenary, Middleton, King, Bynum-Coleman, and Magruder.

d) Education Audit

Education Audit

VA Electrical Education

**VA Electrical
Education**

Bill Ferguson provided a report for the pre-license education course he audited. On October 2, 2019, Mr. Ferguson audited a tradesman electrician continuing education given by VA Electrical Education. This was an unannounced audit of the course titled 2014 NEC Continuing Education. The instructor was Rusty D. Ward. The course's location and date were in agreement with the course information on the education provider's website. After briefing the Board of the audit details a recommendation was made to the Board to maintain the approval of the provider.

e) Remedial Education and Education Provider Conference Reports

**Remedial
Education and
Education
Provider
Conference
Reports**

Board Administrators Marjorie King and Adrienne Mayo Informed the Board the Education Provider conference scheduled for October has been postponed due to low attendance. King and Mayo shared with the Board, Contractors attending the Remedial Education Classes more often are bringing their staff with them to participate. We also have a contractor that came to Remedial Education that is now sending 3-4 employees at a time participate in the class.

f) DOLI Apprenticeship Vocational Codes

**DOLI
Apprenticeship
Vocational Codes**

Ms. Mayo, updated the Board on a discussion from the September 24, 2019 meeting regarding the Doli Dot Codes for Plumbers and Gas Fitters. Ms. Mayo has been in contact with the Virginia Apprenticeship Council and requested a course curriculum for the Apprentices.

g) Legislative Update

Legislative Update

Director, Mary Broz-Vaughan – There are no legislative updates at this time.

h) Board Member Training Update

**Board Member
Training Update**

Attending Board Members felt the Board Member Training conference operated smoothly, was informative, and the most professional conference they had attended. Mr. Dyer recommended that Board members who were unable to go, it would be worth it to attend the next training.

8. Other Board Business

**Other Board
Business**

There was no other Board business at this time.

9. Completion of Paper work

**Completion of
Paper work**

Marjorie King, requested the Board members to complete their Conflict of Interest Statements and Travel Reimbursement Forms.

**Helmets to
Hardhats**

Helmets to Hardhats

Board Members Ayres, and Groh spoke about the non-profit organization Helmets to Hardhats and their involvement with the organization.


The program is designed to help military service members successfully transition back into civilian life by offering them the means to secure a quality career in the construction industry.

Adjournment

10. Adjournment

Chairman, Dyer thanked the Board and Staff for and adjourned the meeting at 12:41 p.m.

The next board meeting will be **December 17, 2019**


Herbert "Jack" Dyer, Jr., Chairman


Mary Broz Vaughan, Director

Copy teste:

Custodian of the Record

APPROVED

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Jeffrey W Hux
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

None

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

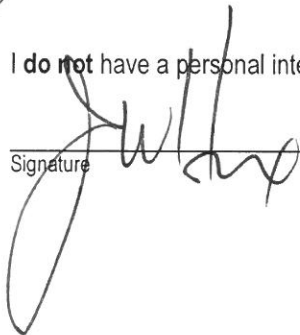
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I ~~do not~~ have a personal interest in any transactions taken at this meeting.

Signature



Date

10-29-19

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Donald Groh
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

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

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.


Signature

10/29/19
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Herburt "Jack" Dyer
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

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

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature

Herburt "Jack" Dyer

Date

10/29/19

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Vance Ayres
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

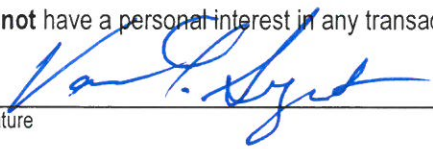
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

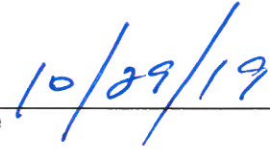
I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature



Date



**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name James Oliver
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

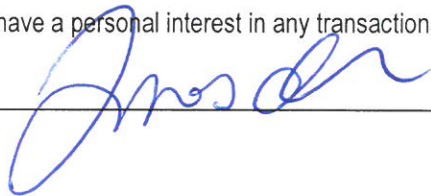
Nature of Personal Interest Affected by Transaction:

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

- I am able to participate in this transaction fairly, objectively, and in the public interest.
or
 I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature



Date

10/29/2019

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Michael Redifer
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

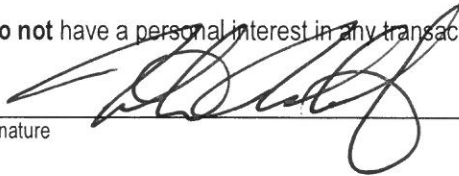
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature



Date

10-29-19

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Jeffrey Shawn Mitchell
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

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

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Shawn Mitchell
Signature

10-29-19
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Wiley "Bif" Johnson
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

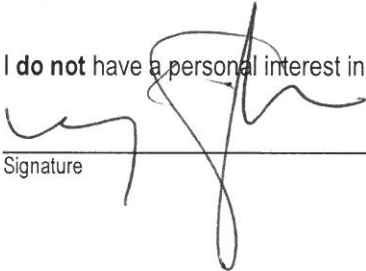
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature



Date

10/29/19

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name Deborah Tomlin
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors
(Name of Board)
4. Meeting/IFF Date: 10/29/2019
5. I have a personal interest in the following transaction:

(Agenda Item)

Nature of Personal Interest Affected by Transaction:

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

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

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Deborah Tomlin

Signature

10-29-19

Date