

DRAFT
Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
July 22, 2008 (9:00 a.m.)

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

Troy Smith, Jr., Board member, presided. No other Board members were present.

Dean Weston Ricks and Caroline Pruettt appeared for the Department of Professional and Occupational Regulation.

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

Disc = Disciplinary Case

Lic = Licensing Application

RF = Recovery Fund Claim

Trades = Tradesmen Disciplinary Case/Application

C = Complainant/Claimant

A = Applicant

R = Respondent/Regulant

W = Witness

Atty = Attorney

Participants

- | | |
|--|--|
| 1. John K. Perrin III
t/a Perrin Construction
File Number 2007-04453 (Disc) | Deborah Whittle - C
Michael Wilson - W |
| 2. Tina L. Carson
t/a Ben Ellis Builders
File Number 2008-02575 (Disc)
NO DECISION MADE | None |
| 3. Mark O. Conley
t/a Unlimited Visions
File Number 2007-03958 (Disc)
NO DECISION MADE | Mark Conley – R
Charles Mesler - C
Pamela Mesler – C |
| 4. Stone Image LLC
File Number 2008-01206 (Disc) | Bridgette Crosby - C
Byron Crosby – C |

- | | |
|---|------|
| 5. Golden Touch Home Improvement, Inc.
File Number 2008-02945 (Disc)
NO DECISION MADE | None |
| 6. Russel Ferguson
t/a Paradise Construction Services
File Number 2008-02354 (Disc)
NO DECISION MADE | None |

The meeting adjourned at 1:10 p.m.

BOARD FOR CONTRACTORS

Robert M. Kirby, Chairman

Jay DeBoer, Secretary

COPY TESTE:

Custodian of Records

IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS

Re: John K. Perrin III

File Number: 2007-04453
License Number: 2705093736

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On May 29, 2008, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to John K. Perrin III ("Perrin"), t/a Perrin Construction, to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On July 22, 2008 an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Deborah Whittle, Complainant; Michael Wilson, Witness; Joseph Haughwout and Caroline Pruett, Staff Members; and Troy Smith, Jr., Presiding Board Member. Neither Perrin, Respondent, nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In June 2006, Perrin entered into a written contract with Deborah C. Whittle ("Whittle"), in the amount of \$26,484.00, to perform heavy remodeling work at the subject property in Richmond, Virginia.

Count 1: Board Regulation

The Proposal used in the transaction, signed by Perrin and Whittle on June 13, 2006, failed to contain subsections a., c., d., e., f., and i. The document also failed to include Perrin's license number, class of license, and classifications or specialty services, as required by subsection h.

It appears Perrin does not fully understand the requirements of the Board's regulations in relation to the minimum provisions to be included in a contract. Failure to include some provisions can have a greater impact than anticipated by the parties to the contract. The

purpose of including these provisions is to protect both the contractor and the consumer, and failure to do so is poor business practice.

Perrin's failure to include required terms in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$700.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 2: Board Regulation

In September 2006, during the remodeling construction, Perrin verbally agreed to repair and paint the front porch roof. Wilson paid Perrin's employee \$800.00 for work to be performed to repair and paint the front porch roof. This was in addition to the work contracted for. Whittle stated that she requested a written change order at least ten times, but Perrin never provided one.

The purpose of this particular regulation is to memorialize agreements between the parties that are established outside of the original contract. The use of change orders provides written proof and assurance that the parties agree with all aspects of such modifications, including scope and cost. Using written change orders helps prevent cost overruns and financial disputes that are common in the contracting industry. If this regulation did not exist, the harm to both the contractor and consumers would be inevitable. Contractors who, upon request of the consumer, performed additional work without proper documentation could be denied the opportunity to collect additional monies. Meanwhile, contractors may modify the contractual agreement without the consumer's knowledge and require consumers to absorb the extra cost.

Perrin's failure to obtain written change orders is a violation of Board Regulation 18 VAC 50-22-260.B.31. Therefore, I recommend a monetary penalty of \$400.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 3: Board Regulation

In June 2006, Perrin commenced work.

As the job went on, according to Whittle, Perrin's crew "dwindled," so that fewer workers were present and less work was being done.

In October 2006, Perrin told Whittle that he was defaulting on the contract and would not be finishing the work. After that, he did not return to the site.

Perrin failed to complete the following items:

- Install casing and trim
- Install 3-0 door;
- Prime and paint all new interior surfaces
- Install kitchen cabinets
- Install and finish pine hardwood floors
- Install staircase
- Tile work
- Repair and paint front porch roof

Perrin's abandonment of the project is a violation of Board Regulation 18 VAC 50-22-260.B.14. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation

Between June and September 2006, Whittle made payments to Perrin, totaling \$28,752.66.

In September 2006, Michael Wilson ("Wilson"), who resides at the subject property, paid \$800.00 to Eric Gurney ("Gurney"), Perrin's employee, to repair and paint the front porch roof. Wilson made the payment directly to Gurney at Perrin's request.

Whittle also stated that she paid Perrin \$1,200.00 for emergency roof work for a leak above the addition.

The amounts paid for which no work was performed total \$14,110.00 for the kitchen, front porch roof work, floor and trim work, and tile work.

In October 2006, Whittle requested that Perrin return the funds received for unfinished work. She attempted to give Perrin ample time to refund the money, and he did contact her during the time frames discussed, but did not return any money.

As of January 2008, Perrin failed to refund money received for work not performed or performed only in part.

Perrin's retention of funds is a violation of Board Regulation 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

Count 5: Board Regulation

In March 2007, the Richmond General District Court awarded Whittle a \$15,000.00 judgment against Perrin.

As of the date of the IFF, Perrin failed to satisfy the judgment.

Perrin's failure to satisfy the judgment is a violation of Board Regulation 18 VAC 50-22-260.B.28. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

By: _____
Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
9960 MAYLAND DRIVE, SUITE 400
RICHMOND, VA 23233-1463

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: February 4, 2008 (revised May 28, 2008)

FILE NUMBER: 2007-04453
RESPONDENT: John K. Perrin III, t/a Perrin Construction
LICENSE NUMBER: 2705093736
EXPIRATION: April 30, 2007

SUBMITTED BY: Renee H. Popielarz
APPROVED BY: Amy Chappell

COMMENTS:

At the time the work was performed for this project, Perrin Construction also had a Class C contractor's license (No. 2705090524) which expired December 31, 2006.

John K. Perrin III ("Perrin"), t/a Perrin Construction, was at all times material to this matter a licensed Class B contractor in Virginia (No. 2705093736).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On April 30, 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Deborah C. Whittle ("Whittle") regarding Perrin. (Exh. C-1)

On June 13, 2006, Perrin entered into a written contract with Whittle, in the amount of \$26,484.00, to perform heavy remodeling work at 315 N. Monroe Street, Richmond, Virginia 23220. (Exh. C-1 and C-2)

On August 4, 2006, Perrin provided Whittle with several addenda to the contract totaling \$6,000.00. (Exh. C-2 and Exh. I-3)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
 - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services; and
 - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The Proposal used in the transaction, signed by Perrin and Whittle on June 13, 2006, failed to contain subsections a., c. (only general information included), d., e., f., h. (document has the name and address only), and i. (Exh. C-2)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, to an already existing contract.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract specified heavy interior remodeling work to be performed by Perrin. (Exh. C-2)

During the remodeling construction, Perrin verbally agreed to repair and paint the front porch roof. On or about September 18, 2006, Wilson paid Perrin's employee \$800.00 for work to be performed to repair and paint the front porch roof. (Exh. C-4, Exh. C-5, Exh. I-3, and Exh. I-5)

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On or about June 13, 2006, Perrin commenced work. (Exh. I-3)

By early October of 2006, Perrin's crew had dwindled. Whittle made numerous telephone calls to Perrin, calling him every fifteen minutes for two days. (Exh. I-3)

The last day Perrin performed work at the subject property was approximately the first week in October 2006 (a week prior to October 11, 2006). (Exh. I-3)

On October 11, 2006, Perrin called Whittle and told her he was defaulting on the contractual agreement. (Exh. C-1 and Exh. I-3)

As of the middle of November 2006, Perrin failed to complete the following items listed in the contract and/or addendums (Exh. C-2 and Exh. I-3):

- Install casing and trim
- Install 3-0 door;
- Prime and paint all new interior surfaces
- Install kitchen cabinets
- Install and finish pine hardwood floors
- Install staircase
- Tile work

In or about the middle of November 2006, Whittle hired another contractor to complete the kitchen work. On April 13, 2007, Whittle hired another contractor to perform the bathroom work. On September 5, 2007, Whittle hired another contractor to complete work on two other rooms in the addition. (Exh. I-3)

4. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 3:

On June 13, 2006, Whittle paid Perrin \$13,242.00 by check. On June 19, 2006, Whittle paid Perrin \$300.16 by check for the permit. On July 14, 2006, Whittle paid Perrin \$3,000.00 by cashier's check. On July 31, 2006, Whittle paid Perrin \$1,810.50 by check. On August 9, 2006, Whittle paid Perrin \$3,000.00 by cashier's check. On August 18, 2006, Whittle paid

Perrin \$2,000.00 by cashier's check. On August 22, 2006, Whittle paid Perrin \$5,000.00 by cashier's check. On or about September 18, 2006, Whittle paid Perrin \$400.00 by cashier's check. (Exh. C-4, Exh. C-5, Exh. I-3, and Exh. I-5)

On September 18, 2006, Michael Wilson ("Wilson"), who resides at the subject property, paid Eric Gurney ("Gurney"), Perrin's employee, \$800.00 by check to repair and paint the front porch roof. Perrin requested Gurney be paid directly for the work because Perrin owed him money. (Exh. C-4, Exh. C-5, Exh. I-3, and Exh. I-5)

Whittle also paid Perrin \$1,200.00 for roof work for a leak above the addition as well. (Exh. C-4 and Exh. I-3)

The amounts paid for which no work was performed include: \$5,000.00 for the Kitchen, \$800.00 for the front porch roof work, \$400.00 for the floor and trim work, and \$855.00 for the tile work (addendum) for a total of \$7055.00. (Exh. C-4 and Exh. I-3)

On October 11, 2006, Whittle requested Perrin return the funds received for the unfinished work. (Exh. I-3)

As of January 30, 2008, Perrin failed to refund money received for work not performed or performed only in part. (Exh. I-3)

5. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

28. Failure to satisfy any judgments.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On March 7, 2007, in the Richmond General District Court, Whittle was awarded a \$15,000.00 judgment against Perrin. (Exh. I-4)

As of January 30, 2008, Perrin failed to satisfy the judgment. (Exh. I-3)

IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS

Re: Stone Image LLC

File Number: 2008-01206
License Number: 2705100721

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 2, 2008, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Stone Image LLC ("Stone Image") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service ("USPS"), marked "Return to Sender, Moved, Left No Address, Unable to Forward".

On July 22, 2008, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Byron and Bridgette Crosby ("the Crosbys"), Complainants; Dean Weston Ricks and Caroline Pruett, Staff Members; and Troy Smith, Jr., Presiding Board Member. Neither Stone Image, Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In September 2006, Stone Image entered into a written contract, in the amount of \$48,000.00, with the Crosbys to construct an addition to the existing home at the subject property in Stafford, Virginia. Larry Hostetter ("Hostetter") signed the contract as a representative of Stone Image.

Count 1: Board Regulation

The contract used by Stone Image in the transaction failed to contain subsections: b., c., d., e., and h.

It appears Stone Image does not fully understand the requirements of the Board's regulations in relation to the minimum provisions to be included in a contract. Failure to include some provisions can have a greater impact than anticipated by the parties to the

contract. The purpose of including these provisions is to protect both the contractor and the consumer, and failure to do so is poor business practice.

Stone Image's failure to include the minimum required terms in its contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 2: Board Regulation

Stone Image changed the roofing shingles to a different style, at an additional cost of \$9,250.00, thus increasing the contract price substantially. No written change order was obtained to cover this change. Further, the color that the Crosbys agreed to was changed without their knowledge, and this caused them to incur additional charges to match the existing shingles to the new ones.

The purpose of this particular regulation is to memorialize agreements between the parties that are established outside of the original contract. The use of change orders provides written proof and assurance that the parties agree with all aspects of such modifications, including scope and cost. Using written change orders helps prevent cost overruns and financial disputes that are common in the contracting industry. If this regulation did not exist, the harm to both the contractor and consumers would be inevitable. Contractors who, upon request of the consumer, performed additional work without proper documentation could be denied the opportunity to collect additional monies. Meanwhile, contractors may modify the contractual agreement without the consumer's knowledge and require consumers to absorb the extra cost.

Stone Image's failure to obtain written change orders is a violation of Board Regulation 18 VAC 50-22-260.B.31. Therefore, I recommend a monetary penalty of \$900.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 3: Board Regulation

In April 2007, Stone Image's workers stopped reporting to the worksite. The Crosbys attempted to contact Hostetter over the course of several weeks, but he did not return their calls until late in April. When Bridgette Crosby spoke with him, he promised to complete the work by mid-May 2007, but work did not continue.

From April 2007 through mid-July, the Crosbys made numerous attempts to contact Stone Image regarding completion of the work.

In July 2007, Byron Crosby terminated the contract because work had not been completed.

In August 2007, the Crosbys met with Hostetter and agreed to allow Stone Image to complete the project. However, work continued to be sporadic, and Hostetter again failed to return the Crosbys' phone calls. During this time, Stone Image removed siding from the house and temporarily covered it with house wrap. Despite the Crosbys' expressed concerns that the house would leak when it rained, the house wrap was left in place and did, in fact, leak. Tiles that had been ordered for the house were delivered, but only a partial shipment, and Stone Image failed to install the tiles.

In September 2007, the Crosbys again terminated the contract because work had not been completed.

As of October 2007, Stone Image failed to complete: ceramic flooring, mudding and drywall, sanding, painting, cabinet installation, appliance installation, countertop installation, inside stair reconfiguration and railing work, outside grading, and stairs and deck.

I find Stone Image's conduct to be particularly egregious. The Crosbys gave Stone Image many opportunities to meet its contractual obligations and complete the work. Instead, Stone Image continued to make promises that it had no intention of honoring. Even after the Crosbys terminated the contract, they gave Stone Image yet another opportunity to complete the work, still to no avail. The number of items left unfinished also troubles me. It is apparent that Stone Image had no intention of completing the contract.

Stone Image's intentional and unjustified failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260.B.15. Therefore, I recommend a monetary penalty of \$2500.00 and license revocation be imposed.

Count 4: Board Regulation

In December 2007, Investigator Demetrios J. Melis ("Melis"), the Board's agent, sent written requests, via regular mail, to Stone Image at the address of record, and at 8719 Jenny Lane, Fredericksburg, Virginia, ("Jenny Lane"), requesting a written response and supporting documents to the complaint filed with the Board.

The regular mailing sent to Jenny Lane was returned by USPS because Stone Image had moved and left no forwarding address.

The regular mailing sent to the address of record was not returned.

In February 2008, the Stafford Postmaster certified mail is delivered to Stone Image at the address of record.

In January 2008, Investigator Curtis Mitchell (“Mitchell”) went to Jenny Lane. Mitchell received no answer to the front door and left a business card in the front door.

In January 2008, Mitchell went to the address of record. He received no answer to the front door and left a business card in the front door. Mitchell also visited the leasing agent located at the Respondent’s property on Vine Street; however the leasing agent would not release any information on the unit.

In January 2008, Mitchell attempted to contact Stone Image at (540) 710-5383. Mitchell did not receive an answer to the call and left a voice message providing the respondent contact information.

In February 2008, the Fredericksburg Postmaster certified Stone Image moved and the forwarding address is 3921 Irvine Street, Spotsylvania, Virginia (“Irvine Street”).

In March 2008, Mitchell sent a written request, via certified mail, to Stone Image to Irvine Street, requesting a written response and supporting documents to the complaint filed with the Board.

In March 2008, Sandra Wickline signed for and received the certified mailing.

As of the date of the IFF, Stone Image failed to respond to the investigator seeking information in the investigation of a complaint filed with the board.

Stone Image’s failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13.

Stone Image’s failure to respond to the investigator is a serious violation of the Board’s regulations. The direct effect of Stone Image’s actions is the inability of the Board to fully investigate this matter. The Board’s ability to discharge its statutory duty to protect the public welfare hinges upon its ability to adequately investigate complaints. Additionally, with the privilege of being granted a license by the Board comes the regulatory obligation to cooperate in administrative investigations and provide records when requested. By failing to respond to the investigator, Stone Image has intentionally exempted itself from the regulation, and unnecessarily hindered the Board’s ability to collect relevant information. Further, the Board must be concerned that Stone Image will continue to ignore regulatory obligations in the future and therefore presents a danger to the public welfare.

If Stone Image is willing to disregard its obligations to the Board, it is just as likely, if not more likely, to disregard its obligations to the public. Therefore, I recommend a monetary penalty of \$2000.00 and license revocation be imposed.

By: _____
Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
9960 MAYLAND DRIVE, SUITE 400
RICHMOND, VA 23233-1463

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: April 3, 2008 (revised May 28, 2008)

FILE NUMBER: 2008-01206
RESPONDENT: Stone Image LLC
LICENSE NUMBER: 2705100721
EXPIRATION: November 30, 2009

SUBMITTED BY: Curtis W. Mitchell, Investigator
APPROVED BY: Demetrios J. Melis, Supervisor

COMMENTS:

Suspended license no. 2705078121.
Expired license no. 2705095240.

Stone Image LLC ("Stone Image") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705100721).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On October 3, 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Bridgette Crosby ("Crosby") regarding Stone Image. (Exh. C-1)

On September 25, 2006, Stone Image entered into a written contract, in the amount of \$48,000.00, with Crosby to construct an addition to the existing home at 1404 Courthouse Road, Stafford, Virginia 22554. The contract was signed by Larry Hostetter, ("Hostetter") on behalf of Stone Image. The contract also indicated the license number 2705100721. (Exh. C-2)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - b. A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment;
 - c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
 - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services; and

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The contract used by Stone Image in the transaction failed to contain subsections: b., c., d., e., and h.

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, to an already existing contract.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract specified:

“Any alteration or deviation from the estimate, drawings, or specifications involving extra time or materials, will be undertaken only upon a written work order with owner consent and signature thus these extra services or products may extend the completion date. These extras would potentially add to the overall contracted amount...” (Exh. C-2)

The contract also specified:

Contingencies: (By Either Party) All Per Plans and Proposals

6. Roofing shingles are to match the existing. 3 tab design. (Exh. C-2)

Stone Image changed the roofing shingles to a new, three tab shingle, cedar brown, at an additional cost of \$9,250.00, which increased the total contract price to \$57,250.00. (Exh. C-2A)

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract specified, “Stone Image LLC shall start on the proposed project on 9-25-06 with plan design and subsequently complete by 3 months after permit issuance...” (Exh. C-2)

On December 11, 2006, the building permit was issued. (Exh. C-1)

On or about April 1, 2007, Stone Image stopped work. Crosby attempted to contact Stone Image, but received no response. (Exh. C-1)

On April 23, 2007, Crosby spoke with Hostetter. Hostetter promised to complete work by May 15, 2007. However, work did not continue. (Exh. C-1)

Between April 24, 2007 and July 14, 2007, Crosby made numerous attempts to contact Stone Image regarding completion of the work. (Exh. C-1)

In a letter dated July 16, 2007, Byron Crosby ("B. Crosby") terminated the contract because work had not been completed. (Exh. C-3)

On August 1, 2007, Crosby met with Hostetter and agreed to allow Stone Image to complete the project. (Exh. C-1)

In a letter dated September 17, 2007, Crosby terminated the contract again because work had not been completed. (Exh. C-3)

As of October 3, 2007, Stone Image failed to complete: ceramic flooring, mudding and drywall, sanding, painting, cabinet installation, appliance installation, countertop installation, inside stair reconfiguration and railing work, outside grading, and stairs and deck. (Exh. C-1)

4. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On December 13, 2007, Investigator Demetrios J. Melis ("Melis"), the Board's agent, sent a written request, via regular mail, to Stone Image at the mailing address of 8719 Jenny Lane, Fredericksburg, Virginia 22407, requesting a written response and supporting documents to the complaint filed with the Board. Melis requested the response be received by January 4, 2008. (Exh. I-2)

On December 26, 2007, the regular mailing was returned to Melis because it could not be forwarded; moved left no forwarding address. (Exh. I-2)

On December 27, 2007, Melis, the Board's agent, sent a written request, via regular mail, to Stone Image at the address of record of 1303 Providence Street, Unit#301, Stafford, Virginia 22554, requesting a written response and supporting documents to the complaint filed with the Board. Melis requested the response be received by January 14, 2008. (Exh. I-4)

As of April 3, 2008, the regular mailing was not returned. (Exh. I-4)

On February 16, 2008, the Stafford Postmaster certified mail is delivered to Stone Image at 1303 Providence Street, Suite #301, Stafford, Virginia 22554. (Exh. I-7)

On January 25, 2008, Mitchell went to 8719 Jenny Lane, Fredericksburg, Virginia 22407. Mitchell received no answer to the front door and left a business card in the front door. (Exh. I-3)

On January 25, 2008, Mitchell went to 1303 Providence Street, Unit #301, Stafford, Virginia 22554. Mitchell received no answer to the front door and left a business card in the front door. Mitchell also visited the leasing agent located at the property on Vine Street; however the leasing agent would not release any information on the unit. (Exh. I-3)

On January 30, 2008, Mitchell attempted to contact Stone Image at (540) 710-5383. Mitchell did not receive an answer to the call and left a voice message providing the respondent contact information. (Exh. I-3)

On February 16, 2008, the Fredericksburg Postmaster certified Stone Image moved and the forwarding address is 3921 Irvine Street, Spotsylvania, Virginia 22553. (Exh. I-5)

On March 14, 2008, Mitchell sent a written request, via certified mail, to Stone Image at the address 3921 Irvine Street, Spotsylvania, Virginia 22553, requesting a written response and supporting documents to the complaint filed with the Board. Mitchell requested the response be received by March 24, 2008. (Exh. I-6)

On March 15, 2008, Sandra Wickline signed for and received the certified mailing. (Exh. I-6)

As of April 3, 2008, Stone Image failed to respond to the investigator seeking information in the investigation of a complaint filed with the board.