

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
January 27, 2004 (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.

Mark Kinser, Board member, presided. No other Board members were present.

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

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

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

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

Participants

- | | |
|---|--|
| 1. Valley Mechanical of Warren Inc
File Number 2002-01176 | None |
| 2. Linwood Williams
t/a Williams Electric Heating Plumbing H/AC Gas
File Number 2002-02140 | None |
| 3. Stanley Earl Johnson
t/a Johnson Builders
File Number 2003-00745 (Disc) | None |
| 4. George William Mallory
t/a City Wide Heating & Air Conditioning
File Number 2003-02480 (Disc) | Mallory – R
Estelle Allen – C |
| 5. Stephen S. Utley Sr.
t/a Mechanicsville Disposal Services
File Number 2003-00304 (Disc)
No Decision Made | Charlie Madison – R
William Thurston – R Atty
Dwayne Roadcap – C
Stephen Utley – W
Larry Madison - W |

6. Stephen S. Utley Sr.
t/a Mechanicsville Disposal Services
File Number 2003-02656 (Disc)
No Decision Made

Charlie Madison – R
William Thurston – R Atty
Dwayne Roadcap – C
Stephen Utley – W
Larry Madison - W

7. The Dominion Companies Inc.
t/a The Dominion Companies
File Number 2002-01289 (Disc)

None

8. Peter A. Murphy
t/a Murph's Building
File Number 2003-01389

None

The meeting adjourned at 3:45 p.m.

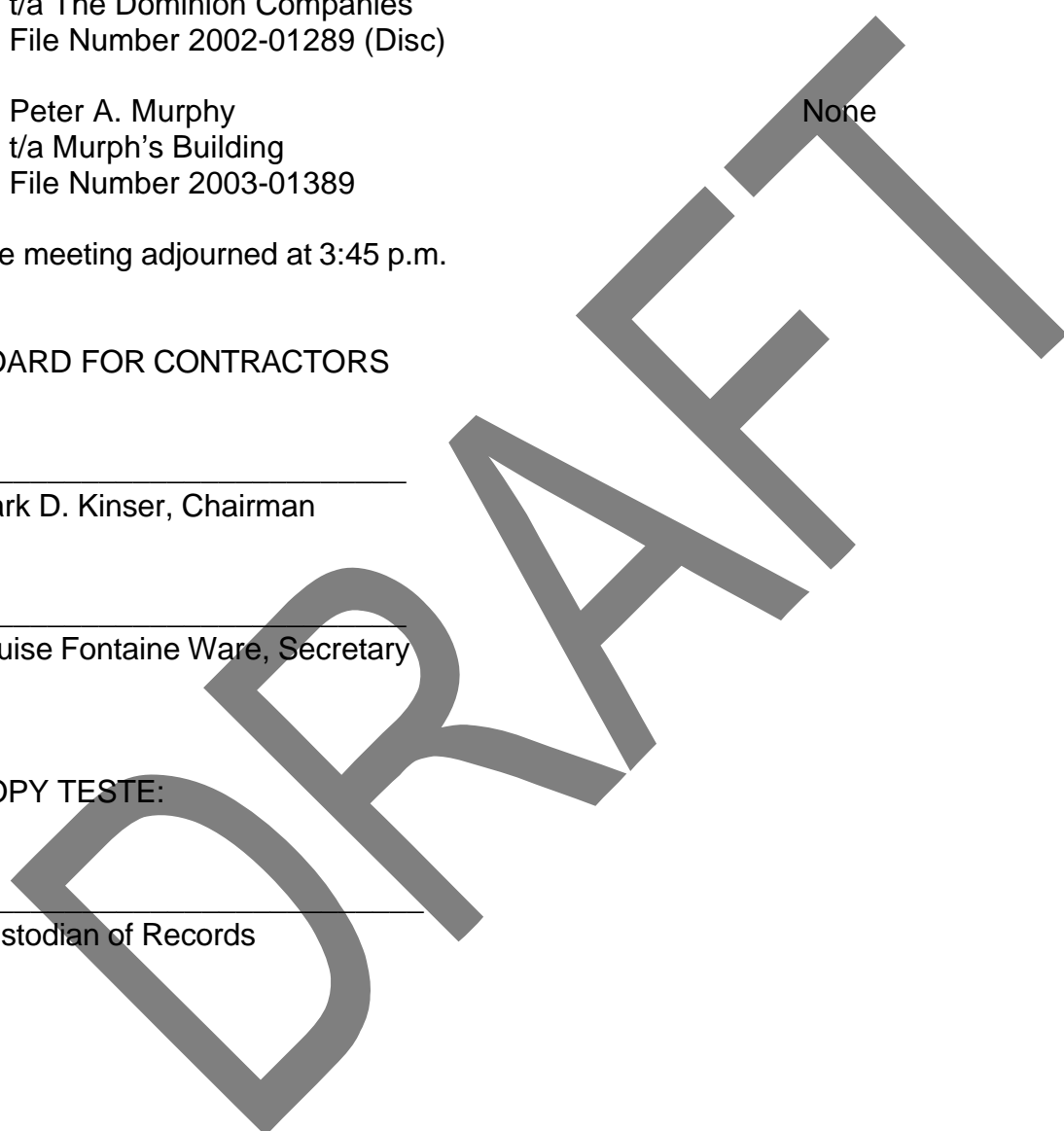
BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: VALLEY MECHANICAL OF WARREN, INC.
LICENSE NUMBER 2701 034139**

FILE NUMBER: 2002-01176

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 27, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to John Hensley, President of Valley Mechanical of Warren, Inc. on November 25, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; Mark Kinser, presiding Board Member. Neither Hensley, nor anyone on his behalf, appeared at the IFF.

Background

On September 11, 2001, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Mark and Susan McGee ("the McGees") regarding work performed by Valley Mechanical of Warren, Inc. ("Valley").

On September 27, 2000, the McGees entered into a contract with John A. Hensley, Jr. Construction ("Hensley"), in the amount of \$143,114.00, for the construction of a house at 1776 Hillendale Road, Front Royal, Virginia.

In the spring and summer of 2000, Valley constructed the house. On November 15, 2000, the McGees settled on the house with the understanding that Valley would return in early 2001 to complete the garage and other small issues.

On August 28, 2001, Valley sent the McGees a letter regarding completion of the construction of the residence. The letterhead indicated John A. Hensley Jr. Construction, a division of Valley Mechanical of Warren, Inc. On October 15, 2001, Valley sent the McGees a second letter regarding the completion of the residence. Hensley signed the letter as President of Valley.

On October 17, 2001, a review of the licensing records of the Board for Contractors revealed Valley was issued Class A Contractor's license number 2701 034139 on April 6, 1989. The records further revealed John A. Hensley, Jr. was the Designated Employee, Qualified Individual, and Responsible Management, as the President of Valley, effective February 22, 1993.

On November 19, 2001, John Hensley sent a written response to Investigator Carolyn Wright, the Board's agent, regarding the complaint filed with the Board. The letterhead indicated John A. Hensley Jr. Construction and "Va. Class A Contractor 034139a."

Summation of Facts

1. Valley failed to operate in the name in which the license was issued, by using the name John A. Hensley, Jr. Construction, instead of Valley Mechanical of Warren, Inc.
2. The contract specified "concrete slab for garage."
3. In a letter dated August 8, 2001, the McGees sent John Hensley a certified letter regarding punch list items and failure to complete the garage by early 2001.
4. In a letter dated August 28, 2001, Valley informed the McGees that the property grade required him to install concrete footings, concrete walls, and an engineered concrete slab. Valley further stated that the garage would be completed only after the engineer approves the fill, walls, and slab design. Valley estimated the garage would be completed by September 20, 2001.
5. On September 6, 2001, Dan J. Hotek ("Hotek"), P. E., inspected the garage foundation wall and adjacent house foundation at the subject property. In a report dated September 25, 2001, Hotek recommended the following:
 - A 4" diameter perforated underdrain pipe should be placed on the interior side of the back garage foundation wall, on top of the existing footing, and connected to the external underdrain system by passing between the garage foundation wall and the residence footing.
 - The garage slab should be placed as per the attached design in order to stiffen the foundation walls and to prevent air borne moisture from entering the soil adjacent to the house foundation.
6. On October 19, 2001, Hensley told Investigator Carolyn D. Wright, the Board's agent, that the garage slab would be completed by November 10, 2001. As of December 26, 2001, Valley failed to complete the garage slab.
7. The McGees began to experience problems with the septic system the later part of 2001. Hensley believed Jason, Inc., the excavator, hit the septic distribution line or a pipe was blocked. Hensley notified Jason, Inc. of the problem and requested Jason Inc. repair the septic distribution line. Hensley advised the Board's agent that Valley would follow-up with Jason, Inc. on December 14, 2001.
8. Jason, Inc. denied damaging the septic line or distribution box while performing the subject grading work on October 25, 2001 and October 26, 2001.

9. As of December 26, 2001, Hensley failed to repair the septic line.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective May 1, 1999)

Valley's failure to operate in the name in which the license was issued is a violation of the Board's 1999 Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$500.00 be imposed for violation of this regulation.

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

Valley's failure to complete the concrete slab for the garage, is a violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Valley's failure to repair the septic line is misconduct in the practice of contracting, in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(6).

Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed for a violation of this regulation.

By: _____

Mark Kinser
Presiding IFF Board Member
Board for Contractors

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2701 034139 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: LINWOOD WILLIAMS
T/A WILLIAMS ELECTRIC HEATING PLUMBING H/AC GAS
LICENSE NUMBER 2705 033692
FILE NUMBER: 2002-02140**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 27, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Linwood Williams, t/a Williams Electric Heating Plumbing H/AC Gas on November 25, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; Mark Kinser, presiding Board Member. Neither Williams, nor anyone on his behalf, appeared at the IFF.

Background

On January 9, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Bishop Wade M. Turner ("Turner") of New Life Christian Ministries of Our Lord Jesus Christ, Inc. regarding a contract entered into with Linwood L. Williams ("Williams"), t/a Williams Electric Heating Plumbing H/AC Gas.

On November 7, 2001, Turner received a written proposal from Williams, in the amount of \$9,400.00.00 to construct a 40' x 80' A-frame roof for the church at 3428 Maury Street, Richmond, Virginia.

On November 8, 2001, Turner sent Williams a letter advising that the church board of trustees agreed to hire Williams and requested Williams provide, in writing:

- All materials
- Labor and man power
- Builders permit
- Copy of business license
- References
- Copy of driver's license
- Guarantee of work in writing

Williams acknowledged the terms of the agreement by signing the November 8, 2001 letter.

Summation of Facts

1. On October 28, 2003, a review of the licensing records of the Board for Contractors revealed Williams was issued Class C Contractor's license number 2705033692 on April 15, 1996.
2. Williams failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.
3. The contract used by Williams in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining 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, inspection, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's name, address, license number, expiration date, 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.
4. On November 26, 2001, Williams began the work.
5. On December 3, 2001, Manuel Remocaldo ("Remocaldo"), City of Richmond Building Inspector, visited the job site and stopped the work because Williams failed to obtain a city permit prior to commencement of work.
6. On December 5, 2001, Williams told Turner that the building inspector told him to stop all work.
7. On December 11, 2001, Remocaldo issued a Notice of Violation for work being performed at 3428 Maury Street, Richmond, Virginia without proper permits, in violation of Sections 121.0 and 118.0 of the Uniform Statewide Building Code ("USBC"). Remocaldo requested a building permit be applied for with the proper plans detailing the scope of the work by December 20, 2001.
8. On December 14, 2001, Turner received the Notice of Violation, which was placed in the church's mailbox. On December 18, 2001, Turner forwarded the Notice of Violation to Williams. Turner requested Williams abate the violations by the deadline.
9. On January 16, 2002, Williams told Investigator Robert Hansel, the Board's agent, that the work is approximately 85% complete and all that remained to be completed was erecting 4 to 5 trusses, putting on sheathing, and installing tar paper.

10. On January 31, 2002, Williams told the Board's agent that he was in the processing of obtaining drawings in order to obtain the permit. Williams further told the Board's agent that Turner obtained the permit and hired another contractor to complete the work.

Conclusion and Recommendation

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

Williams' failure to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license, is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed for violation of this regulation.

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

Williams' failure to contain the minimum provisions in the contract, as required by the Board, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$600.00 be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-260(B)(25) (Effective September 1, 2001)

Williams' failure to abate the violation of the Virginia Uniform Statewide Building Code, is a violation of Board Regulation 18 VAC 50-22-260(B)(25). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed for a violation of this regulation.

Count 4: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Williams' failure to complete work contracted for, is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$1,000.00 and revocation of his license be imposed for a violation of this regulation.

By:

Mark Kinser
Presiding IFF Board Member
Board for Contractors

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 033692 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: STANLEY EARL JOHNSON, II
T/A JOHNSON BUILDERS
LICENSE NUMBER 2705 055694**

FILE NUMBER: 2003-00745

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 27, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stanley Earl Johnson, II on October 20, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Mark Kinser, Presiding Board Member. Neither Johnson, nor anyone on his behalf, appeared at the IFF.

BACKGROUND

On September 12, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from James Coger ("Coger") regarding a contract entered into with Stanley Earl Johnson, II ("Johnson"), t/a Johnson Builders.

On May 11, 2001, Coger entered into a contract with Johnson, in the amount of \$11,800.00, for the construction of a 24' x 32' A frame one-story garage on existing concrete slab to Coger's residence at 516 York Point Road, Seaford, Virginia 23696.

Summation of Facts

1. The contract used by Johnson in the transaction failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (b) statement of the total cost of the contract and any schedule for progress payments, (c) a listing of specified materials and work to be performed, (d) a "plain language" exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) the contractor's address, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the materials, and estimated completion date, must be in writing and signed by all parties.
2. On or about May 25, 2001, Johnson commenced work. On or about June 9, 2001, Johnson completed the work.
3. On May 27, 2003, Bill Ritter ("Ritter"), Plans Examiner for the York County Building Officials Office, advised Investigator Wayne J. Ozmore Jr., the Board's agent, that Johnson failed to obtain a building permit for the construction of a 24' x 32' garage on at 516 York Point Road, Seaford, Virginia.
4. On June 24, 2003, Ritter advised the Board's agent that Johnson failed to obtain a building permit prior to the commencement of work as required by Section 109.1.1 of the Virginia Uniform Statewide Building Code.
5. On or about July 11, 2001, Coger noticed that the shingles did not match on the roof of the garage. The shingles that did not match were not from the same lot number as the other [shingles installed on the property]. The supplier of the shingles told Coger that they would replace shingles at no cost, but they would not cover labor.
6. On or about July 25, 2001, Johnson verbally promised Coger that he would replace the shingles that did not match. Coger called Johnson for a period of six months requesting Johnson honor his promise to replace the shingles that do not match.
7. On or about March 15, 2002, Coger asked Johnson to put his promise in writing that Johnson would replace the shingles that do not match. Johnson would not place that promise in writing. Since making that request from Johnson, Coger has heard nothing further from Johnson. Johnson no longer returns Coger's telephone calls. Coger sent Johnson "a certified letter to Johnson's business address and it was returned."
8. On or about September 3, 2002, in the York County General District Court, Coger was awarded a \$1,536.00 default judgment against Johnson. As of May 26, 2003, Johnson failed to satisfy the judgment.
9. On or about January 14, 2003, the Board's agent made a written request to Johnson at the address of record of 28 North Willard Avenue, Hampton, Virginia 23663, requesting a written response and supporting documents to the complaint filed with the Board. The

Board's agent requested the documents be received by January 31, 2003. As of May 23, 2003, Johnson refused or failed to respond to the Board's agent's request.

11. On March 25, 2003, the Board's agent attempted to contact Johnson at (757) 722-4339, the telephone number listed on the contract. The Board's agent received a message that the telephone number was disconnected.

Conclusion and Recommendation

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

Johnson's failure to contain the minimum provisions required by the Board's 1999 Regulation is a violation of the Board's 18 VAC 50-22-260(B)(8). Therefore, I recommend that a monetary penalty of \$800.00 be imposed for a violation of the regulation.

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

Johnson's failure to obtain a building permit prior to the commencement of work is misconduct in the practice of contracting in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed for a violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Johnson's failure to satisfy the judgment entered against him on September 3, 2002 in York County District Court, is a violation of the Board's 2003 Regulation 18 VAC. 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of the regulation.

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

Johnson's failure to respond to an investigator seeking information concerning a complaint filed with the board, is a violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of the regulation.

By:

Mark Kinser
Presiding IFF Board Member
Board for Contractors

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 055694 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

In Re:

George William Mallory, t/a City Wide Heating And Air Conditioning
Richmond, VA 23223

File Number 2003-02480
License Number 2705005565

CONSENT ORDER

Respondent George William Mallory, t/a City Wide Heating And Air Conditioning ("George William Mallory") was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705005565).

As a result of this status, George William Mallory recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

A violation of these Regulations has been reported and investigated. These matters were considered on January 27, 2004 in an Informal Fact Finding Conference ("IFF") pursuant to the Administrative Process Act §§ 2.2-4019 and 2.2-4021 of the 1950 Code of

Virginia, as amended. This IFF was held in Richmond, Virginia and was attended by Mallory and Estelle Allen. Board Member Mark Kinser presided at the IFF.

The Board's duly designated representative has found sufficient evidence to believe that:

Summation of Facts

1. Mallory failed to operate in the name in which the license was issued.
2. The contract used by Mallory in the transaction failed to contain: (a) when the work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) the contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
3. On or about July 25, 2002, Mallory installed the furnace.
4. On March 31, 2003, David W. Schauz, Plans Examiner with the City of Richmond, advised Investigator Becky C. Angelilli, the Board's agent, that Mallory failed to obtain a permit prior to the commencement of work as required by Section 109.1 of the Virginia Uniform Statewide Building Code.
5. On July 25, 2002, Allen paid Mallory \$2,300.00.
6. On or about March 24, 2003, the Board's agent made a written request to Mallory at the address of record of 1120 N. 35th Street, Richmond, Virginia, 23223, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by April 8, 2003.
7. On May 1, 2003, Mallory told the Board's agent that he would send a written response. As of May 28, 2003, the Board's agent did not receive a written response from Mallory. On May 28, 2003, Mallory told the Board's agent that his written response was ready and he would bring it to the office. As of June 17, 2003, the Board's agent did not receive a written response from Mallory. On June 17, 2003, Mallory told the Board's agent that he would send the written response. As of July 14, 2003, the Board's agent did not receive a written response from Mallory.
8. During the IFF, Allen testified that Mallory completed the installation of the furnace in November of 2002, after the gas service was hooked up which was delayed. Allen stated that the furnace is currently running properly.
9. Mallory stated that he would change his license to reflect the current name he is operating under, following the IFF.

The Board and George William Mallory, as evidenced by the signatures affixed below, enter into this Consent Order. George William Mallory knowingly

and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

Further, by signing this Consent Order, George William Mallory acknowledges an understanding of the charges. George William Mallory hereby admits to the violation(s) of the Board's Regulations and consents to the following term(s) by the Board:

On Count 1, Mallory's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230(A). Mallory agrees to pay a monetary penalty in the amount of \$100.00 for violation of this regulation. Additionally, Mallory agrees to inform the Board of his current trading name within 30 days of the effective date of this order.

On Count 2, Mallory's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Mallory agrees to pay a monetary penalty in the amount of \$100.00 for violation of this regulation.

On Count 3, Mallory's failure to obtain a permit prior to the commencement of work as required by Section 109.1 of the Virginia Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Mallory agrees to pay a monetary penalty in the amount of \$250.00 for violation of this regulation.

On Count 4, Mallory's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Mallory agrees to pay a monetary penalty in the amount of \$150.00 for violation of this regulation.

The above monetary penalties, costs or sanctions are to be paid/performed within thirty days of the effective date of this consent order. George William Mallory acknowledges the monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, George William Mallory will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

George William Mallory acknowledges that failure to pay the penalty, the costs, or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of George William Mallory's license until such time as there is compliance with all terms of this Order. George William Mallory understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

George William Mallory
t/a City Wide Heating And Air Conditioning

Date

CITY/COUNTY OF _____
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2004.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2004.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: THE DOMINION COMPANIES, INC.
LICENSE NUMBER 2705 051333**

FILE NUMBER: 2002-01289

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 27, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to The Dominion Companies, Inc. on October 21, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Mark D. Kinser, Presiding Board Member. Neither Gary Emerson, representative for The Dominion Companies, nor anyone on their behalf, appeared at the IFF.

Background

On or about October 16, 2000, Frank and Margaret Morgan (the Morgans) entered a contract with The Dominion Companies, Inc., in the amount of \$1,500.00, for the redesign of the master and guest bathrooms at 7608 Argyle Avenue, Norfolk, Virginia.

On or about October 25, 2000, the Morgans entered a second contract with The Dominion Companies, Inc., in the amount of \$18,800.00, for the renovation of the master bathroom at the subject property. At the signing of this contract, the Morgans paid The Dominion Companies, Inc. \$9,000.00 as a deposit.

On or about October 28, 2000, the Morgans entered into a third contract with The Dominion Companies, Inc., in the amount of \$12,330.00, for the renovation of the guest bathroom at

the subject property. At the signing of this contract, the Morgans paid The Dominion Companies, Inc. \$2,500.00 as a deposit.

Summation of Facts

1. The contracts used by The Dominion Companies, Inc. in the transactions failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when work is to begin and the estimated completion date, (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 license expiration date, class of license, and license 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.
2. On or about January 23, 2002, Gary Emerson (Emerson), President of The Dominion Companies, Inc., told Investigator Robert N. Pritchard, the Boards Agent, that an unknown person at the Building Official's Office in the City of Norfolk informed him that permits were not required for the work at the Morgans' residence.
3. Section 109.1 of the Uniform Statewide Building Code requires contractors to make written application for and obtain approved permits issued by the code official before the commencement of work.
4. On or about March 11, 2002, Annie Bryant (Bryant) and Thomas P. Kapsha (Kapsha) with the City of Norfolk's Building Official's Office advised the Board's Agent that building, plumbing, and electrical permits were required for the scope of the work contracted for at the Morgan's residence. The Dominion Companies, Inc. failed to obtain building, plumbing, and electrical permits from the City of Norfolk prior to the commencement of work.

Conclusion and Recommendation

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

The Dominion Companies, Inc.'s failure to make use of legible written contracts that contain all provisions specified in the regulation is in violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$500.00 be imposed for each violation.

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

The Dominion Companies, Inc.'s failure to obtain building, plumbing, and electrical permits from the City of Norfolk prior to the commencement of work is a violation of Board

Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 051333 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: PETER A. MURPHY
T/A MURPH'S BUILDING
LICENSE NUMBER 2705 067819**

FILE NUMBER: 2003-01389

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 27, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Peter A. Murphy, t/a Murph's Building (Murphy) on October 21, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Mark A. Kinser, Presiding Board Member. Neither Murphy, nor anyone on his behalf, appeared at the IFF.

Background

On or about November 6, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Lynn Grayson (Grayson) regarding a contract entered into with Peter A. Murphy ("Murphy"), t/a Murphy's Building.

On or about July 10, 2002, Grayson entered into a contract with Murphy, in the amount of \$13,000.00, for the construction of a screened porch and deck at 4555 Summerset Drive, Roanoke, Virginia.

Summation of Facts

1. The contract used by Murphy in this transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and an estimated completion date, (b) a schedule for progress payments and a specific statement on the amount of down payments, (d) a plain-language exculpatory clause concerning events beyond the control of the contractor and a statement that delays caused by such events do not constitute abandonment and are not included in calculating the time frame for payments or performance, (f) disclosure of the cancellation rights of the parties, (h) the contractor's license number, expiration date, class of license and classification or specialty service, and (i) a statement providing that any modification to the contract, which changes the cost, materials, work to be performed or estimated completion date, must be in writing and signed by all parties.
2. The licensing records of the Board for Contractors revealed Murphy was issued Class C Contractor's license number 2705067819 on March 18, 2002. Murphy failed to obtain a Class B license to enter into a contract in excess of the \$7,500.00 limit of a Class C license.
3. During the construction of the deck and porch for Grayson, Murphy performed electrical work by wiring light fixtures and connecting the wiring to the main breaker box.
4. The licensing records of the Board for Contractors revealed Murphy was issued Class C Contractor's license number 2705067819, with the home improvement ("HIC") and ("PTC") specialties and the building ("BLD") classification.
5. The contract specified a 14' x 16' screened porch. Murphy constructed a 13' x 17' screen porch, which required additional materials and carpet.
6. In addition to the work contracted for, Murphy added can lights and a cricket roof, and upgraded the French door unit. Murphy failed to obtain written change orders for the modification in the scope of work.

Conclusion and Recommendation

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

Murphy's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$600.00 be imposed.

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

Murphy's failure to obtain a Class B license to enter into a contract in excess of the \$7,500.00 limit of a Class C license is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend a monetary penalty of \$1,500.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Murphy's actions of practicing in a classification, specialty service, or class of license for which the contractor is not licensed is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend a monetary penalty of \$1,500.00 be imposed.

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

Murphy's failure to obtain written change orders for the modification to the scope of work is a violation of Board Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend a monetary penalty of \$1,500.00 be imposed.

By:

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 067819 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

DRAFT