

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
February 26, 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.

Ruth Ann Wall, Presiding Officer, presided. No Board members were present.

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

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

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

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

Participants

- | | |
|--|--|
| 1. Mason J. Gray
t/a Gray's Complete Basement Remodeling
File Number 2003-01954 (Disc) | Deophister Uffer - C |
| 2. William W. Craft
t/a American Eagle Docks and Decks
File Number 2003-03472 (Disc) | Carolyn Peters - C
Robert Peters - C |
| 3. David Duncan
t/a D & D Home Improvement & Painting Co
File Number 2003-03492 (Disc) | None |
| 4. Rodney Brian Cooper
t/a Cooper's Home Improvement
File Number 2003-01352 (Disc) | Rodney Cooper – R (By Phone)
Richard Follett – C
Mary Follett – C
Geary Showman – C |
| 5. Gary Eugene Graham
t/a Gary's Remodeling
File Number 2004-00080 (Disc) | Gary Graham – R
Joseph Kaestner – R Atty
Frances Robinson – C |

6. Thomas W. Crowe Sr.
File Number 2002-02372 (Trades)

Thomas Crowe – R
Barbie Dawson - W

7. Meadows Homes Inc.
File Number 2003-00829 (Disc)

Lilo Thompson – R-by phone
Joanna Johncox - C

8. Shawn W. Kelly
t/a Home Improvement
File Number 2003-02782 (Disc)

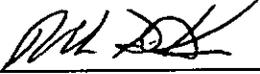
Shawn Kelly – R
Stephen Ferriell – C
Barbara Ferriell - C
Jenny Crockett - W

9. Samuel D. Stanley
t/a Sam & Janice Your Personal Pavers
File Number 2003-02461 (Disc)

Samuel Stanley – R
Janice Stanley - W

The meeting adjourned at 3:15 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: MASON J. GRAY
T/A GRAY'S COMPLETE BASEMENT REMODELING
LICENSE NUMBER 2705069411

FILE NUMBER: 2003-01954

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Mason J. Gray, t/a Gray's Complete Basement Remodeling on December 8, 2003. The following individuals participated at the conference: Deophister Uffer, Complainant; Jennifer Kazzie, Staff

Member; Ruth Ann Wall, Presiding Officer. No one appeared on behalf of Mason J. Gray, t/a Gray's Complete Basement Remodeling.

Background

On December 27, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Howard and Deophister Uffer ("the Uffers") regarding a contract entered into with Mason J. Gray ("Gray"), t/a Gray's Complete Basement Remodeling.

On June 19, 2002, the Uffers entered into a contract with Gray, in the amount of \$13,600.00, for the construction of a basement at 32 Palace Lane, Stafford, Virginia.

On August 7, 2002, Gray finished framing the basement. On August 12, 2002, the work performed by Gray was inspected. Between August 13, 2002 and September 20, 2002, the electrical work was performed. On September 21, 2002, the plumbing work was performed.

Summation of Facts

1. On December 17, 2002, a review of the licensing records of the Board for Contractors revealed Gray was issued Class C Contractor's license number 2705069411 on June 11, 2002, with a home improvement contracting ("HIC") and painting and wall covering contracting ("PTC") specialties.
2. Gray 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 Gray 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) contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
4. On October 9, 2002, the Uffers called Gray to inform him that the waste line and pipes were cleared and to ask Gray when he would return to complete the job. Gray refused to return until the Uffers obtain a letter guaranteeing that the waste line and pipes were cleared. On November 19, 2002, the Uffers received the letter guaranteeing the waste line and pipes were cleared.

5. On November 25, 2002, Gray promised the Uffers he would meet with Uffers on November 26, 2002. On November 26, 2002, Gray failed to return the subject property.

6. On November 26, 2002, the Uffers sent Gray a letter regarding completion of the work.

7. On December 3, 2002, the Uffers called Gray to request Gray return to the subject property to discuss completion of the work. On December 5, 2002, Gray returned to the subject property. The Uffers requested Gray complete the work by January 18, 2002; however, Gray refused. As of December 11, 2002, Gray failed to return to complete the work contracted for.

8. On September 8, 2003, in the Stafford General District Court, the Uffers were awarded a \$5,628.00 judgment against Gray for breach of construction contract involving improper and dishonest conduct. As of October 1, 2003, Gray failed to satisfy the judgment.

9. On January 29, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Gray at the address of record of 11737 Post Oak Road, Spotsylvania, Virginia 22553, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a response be received by February 15, 2003. On February 10, 2003, the United States Postal Service returned the letter to the Board's agent and marked the letter "Undeliverable as address. Forwarding order expired."

10. On April 25, 2003, the Board's agent made a second written request, via certified mail, to Gray at the address of record of P.O. Box 1407, Spotsylvania, Virginia 22553, requesting a written response and supporting document to the complaint filed with the Board. The Board's agent requested a response by May 7, 2003. On May 20, 2003, the United States Postal Service returned the certified letter to the Board's agent and marked the certified letter "Unclaimed."

11. On May 20, 2003, the Board's agent made a third written request, via First Class mail with proof of mailing, to Gray at the address of record of P.O. Box 1407, Spotsylvania, Virginia 22553, requesting a written response and supporting document to the complaint filed with the Board. The Board's agent requested a response as soon as Gray received the letter. On May 22, 2003, the letter was delivered.

12. On August 28, 2003, the Board's agent visited 11737 Post Oak Road, Spotsylvania, Virginia 22553. The Board's agent did not find anyone at the address and left a business card for Gray to contact the Board's agent.

13. On September 2, 2003, the Board's agent received an anonymous telephone voice message from an unidentified lady who reported that Gray no longer lived at 11737 Post Oak Road, Spotsylvania, Virginia.

14. As of October 7, 2003, Gray refused or failed to respond to the Board's agent's request.

Conclusion and Recommendation

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

Gray's 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 \$250.00 be imposed, along with revocation of Gray's license.

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

Gray's failure to include the minimal provisions in the written contract as required, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Gray's license.

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

Gray's failure to return to complete the work contracted for, is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Gray's license.

Count 4: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Gray's failure to satisfy the judgment entered against him in the Stafford General District Court, is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Gray's license.

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

Gray's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Gray's license.

By:

Ruth Ann Wall
Presiding Officer
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 2705069411 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: WILLIAM W. CRAFT
T/A AMERICAN EAGLE DOCKS AND DECKS
LICENSE NUMBER 2705071245**

FILE NUMBER: 2003-03472

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to William W. Craft, t/a American Eagle Docks and Decks on December 8, 2003. The following individuals participated at the conference: Carolyn and Robert Peters, Complainants; Jennifer Kazzie, Staff Member; Ruth Ann Wall, presiding Officer. No one appeared on behalf of William W. Craft, t/a American Eagle Docks and Decks.

Background

On June 13, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Robert Peters ("Peters") regarding a contract entered into with William W. Craft ("Craft"), t/a American Eagle Docks And Decks.

On April 12, 2003, Petérs entered into a contract with Craft, in the amount of \$7,500.00, to construct a dock and boat ramp at Lot 5, The Village at Lake Anna, 56 Mariners Drive, Mineral, Virginia. The current address is 56 Village Drive, Mineral, Virginia.

Summation of Facts

1. On July 15, 2003, Investigator Renee H. Popielarz, the Board's agent, took a photograph of the area where the deck and boat ramp were to be built, which showed that Craft failed to perform any work.
2. On April 12, 2003, Peters paid Craft \$1,200.00 by check, as a deposit. Peters left several telephone messages for Craft. Peters also sent Craft a registered letter regarding completion of the work, which was not accepted.
3. On July 3, 2003, the Board's agent made a written request to Craft at the address of record of 11740 Belfonte Road, Bumpass, Virginia 23024, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by July 18, 2003. The letter was not returned by the United States Postal Service.
4. On July 9, 2003, Peters sent Craft a letter requesting a full refund because Craft failed to commence work. As of October 29, 2003, Craft failed to return the funds received for work not performed.
5. On July 15, 2003, Investigator Renee H. Popielarz, the Board's agent, took a photograph of the area where the deck and boat ramp were to be built, which showed that Craft failed to perform any work.
6. On August 11, 2003, the Board's agent called (540) 895-0323; the telephone number listed on the complaint form, and discovered the telephone number was disconnected. On August 11, 2003, the Board's agent called (540) 840-0343; the telephone number listed on the contract, and received the voice mail for a Bill Hicks. On August 11, 2003, the Board's agent also called (540) 640-0343 since the telephone number listed on the contract was difficult to read; however, the Board's agent received a message that the number could not be completed as dialed.
7. On August 14, 2003, the Board's agent searched Yahoo yellow pages and white pages for a different telephone number. The Board's agent did not find a listing for either American Eagle Docks and Decks or Craft in the Bumpass area.
8. As of October 29, 2003, Craft refused or failed to respond to the Board's agent's request.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(15) (Effective January 1, 2003)

Craft'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 that a monetary penalty of \$2,500.00 be imposed, along with revocation of Craft's license.

Count 2: 18 VAC 50-22-260(B)(16) (Effective January 1, 2003)

Craft's retention of funds paid, for which work was not performed, is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed, along with revocation of Craft's license.

Count 3: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Craft's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed, along with revocation of Craft's license.

By:

Ruth Ann Wall
Presiding Officer
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 2705071245 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

BOARD FOR CONTRACTORS

**RE: DAVID DUNCAN
T/A D & D HOME IMPROVEMENT & PAINTING CO.
LICENSE NUMBER 2705072363**

FILE NUMBER: 2003-03492

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to David Duncan, t/a D & D Home Improvement & Painting Co. on December 9, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; Ruth Ann Wall, Presiding Officer. No one appeared on behalf of David Duncan, t/a D & D Home Improvement & Painting Co.

Background

On June 16, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Dawn Miles ("Miles") regarding a contract entered into with David Duncan ("Duncan"), t/a D & D Home Improvement & Painting Co.

On February 24, 2003, Miles entered into a contract with Duncan, in the amount of \$21,500.00, for the completion of an unfinished basement at 3754 Bogner Drive, Woodbridge, Virginia.

In February 2003, Duncan commenced work.

On June 17, 2003, a review of the licensing records of the Board for Contractors revealed Duncan was issued Class C Contractor's license number 2705072363 on November 19, 2002.

Summation of Facts

1. The contract used by Duncan in the transaction failed to contain: (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, and (h) contractor's license number, expiration date, class of license, and specialty service.
2. Duncan 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 specified "Seven Thousand Dollars (\$7,000) down payment. After framing of basement walls, installing insulation, ruff (sic) in wiring, and installation of plumbing a payment of Seven Thousand Dollars (\$7,000) is due. After hanging of drywall, hanging of doors, installation of trim, and priming, a payment of Three Thousand Dollars (\$3,000) is due."
4. On February 26, 2003, Miles paid Duncan \$7,000.00 by check, as the down payment. On April 8, 2003, Miles paid Duncan \$7,000.00 by check, as the second installment.
5. As of April 30, 2003, Duncan failed to return to install the toilet, sink, shower, fixtures, doors, painting, floors, light fixtures, and glass bar.
6. On May 11, 2003, Miles sent Duncan a certified letter regarding the incomplete work. Miles requested Duncan complete the work in seven days or the agreement would be terminated and refund the funds received. As of May 11, 2003, Duncan failed to hang the drywall and doors, install the trim, prime, and install a toilet, sink, and shower fixtures.
7. On May 13, 2003, Miles contacted Duncan by telephone and scheduled an appointment for May 17, 2003, to resolve the incomplete work. On May 17, 2003, Duncan failed to show up for the appointment.
8. On May 25, 2003, Miles hired another contractor to repair and complete the work.
9. Duncan failed to refund money received for work not performed or performed in part.
10. On July 10, 2003, the Board's agent made a written request, via certified mail, to Duncan at the address of record of 3111 Burgundy Road, Alexandria, Virginia 22303, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by July 28, 2003. On July 16, 2003, Duncan signed for and received the certified letter. As of September 5, 2003, Duncan failed to respond to the Board's agent's request.
11. On August 1, 2003, Gina Lane ("Lane"), Secretary with Prince William County Department of Building Development, advised Investigator Carolyn D. Wright, the Board's agent, that Duncan failed to obtain required building, plumbing, or electrical permits for the work performed, in violation of Section 109.1 of the Virginia Uniform Statewide Building.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective January 1, 2003)

Duncan's failure to include the minimum provision in the written contract as required, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Duncan's license.

Count 2: 18 VAC 50-22-260(B)(27) (Effective January 1, 2003)

Duncan's 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 \$250.00 be imposed, along with revocation of Duncan's license.

Count 3: 18 VAC 50-22-260(B)(6) (Effective January 1, 2003)

Duncan's failure to obtain required building, plumbing, or electrical permits for the work performed is misconduct in the practice on contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Duncan's license.

Count 4: 18 VAC 50-22-260(B)(16) (Effective January 1, 2003)

Duncan's failure to refund money received for work not performed or performed in part, is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Duncan's license.

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

Duncan's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Duncan's license.

By:

Ruth Ann Wall
Presiding Officer
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 2705072363 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

**RE: RODNEY BRIAN COOPER
T/A COOPER'S HOME IMPROVEMENTS
LICENSE NUMBER 2705061060**

FILE NUMBER: 2003-01352

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Rodney Brian Cooper on December 9, 2003. The following individuals participated at the conference: Rodney Cooper, Respondent, By Phone; Mary Ruth and Richard Follett, Complainants; Geary Showman, Building Official, Complainant; Jennifer Kazzie, Staff Member; Ruth Ann Wall, presiding Officer.

Background

On January 27, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Geary W. Showman ("Showman"), Shenandoah County Building Code Official, regarding work performed by Rodney Brian Cooper ("Cooper"), t/a Cooper's Home Improvements.

On March 5, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Richard and Mary Follett ("the Follett's") regarding a contract entered into with Cooper.

On August 12, 2002, the Follett's paid Cooper \$9,000.00 and \$4,000.00 by two checks.

On September 24, 2002, Cooper commenced work.

On September 30, 2002, the Follett's entered into a contract with Cooper, in the amount of \$30,000.00, to remodel a kitchen at 111 South Funk Street, Strasburg, Virginia.

On October 2, 2002, the Follett's paid Cooper \$5,000.00 by check. On October 29, 2002, the Follett's paid Cooper \$5,500.00 by check. On November 3, 2002, the Follett's paid Cooper \$2,500.00 by check.

Summation of Facts

1. On October 2, 2003, a review of the licensing records of the Board for Contractors revealed Cooper was issued Class C Contractor's license number 2705061060 on February 13, 2001.
2. Cooper 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 Cooper 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.
4. On January 14, 2003, Showman inspected the work performed by Cooper at 111 South Funk Street, Strasburg, Virginia. In a letter dated January 21, 2003, Showman advised the Follett's of the following building code violations:
 - Work near completion without proper Building, Electrical, Plumbing, Mechanical, Gas Line Permits.
 - Work completed by a contractor without the proper Virginia State License.
 - Concealment of electrical, plumbing, framing, and mechanical systems prior to required inspections.

- Garbage disposal without proper electrical box connector and wire hanging under the sink not connected to electrical supply.
- A 1 ½" S Trap on the kitchen sink waste (P Trap required) with a 1 ½" T in the wrong position (double sweep T required) and no required relief vent.
- Dishwasher not connected to electrical supply or water supply and installed in the kitchen cabinets incorrectly.
- Electrical wiring to under counter outlet mounted onto the sheet-rock surface.
- Used dead toe-kick space under cabinets for a hot air supply duct (a metal supply duct required).
- No GFCI on the kitchen counter top outlets, on outlet on the south kitchen wall wired improperly and no outlet or switch plate covers.
- Electrical 12/2 circuit wire found in the basement between the floor joist had been hot for about two months (no protection).
- Gas line installed to kitchen range without pressure test and no required gas line labeling.
- Large raised area (bump) in the floor between the kitchen and dining (sic) room (1" difference within 3').
- Improper attachment of kitchen cabinets to existing kitchen walls (need the proper cabinet screws).
- No water proof sealant around kitchen sink and counter top.
- Complaint of payment of \$1000 for a living room gas stove that has not been installed.

5. On February 8, 2003, the Follett's sent Cooper a letter regarding work to be completed. In addition to the items in Showman's January 21, 2003, letter, the Follett's provided Cooper with a list of items to be completed in order for the contract to be satisfied.

6. On February 13, 2003, Investigator Morgan Moore, the Board's agent, made a written request to Cooper at the address of record of 11051 Harry Byrd Hwy, Berryville, Virginia 22611, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a response by March 7, 2003.

7. On February 24, 2003, the Follett's received a telephone call from Cooper, who requested a fax number to fax a response to the February 8, 2003, letter. As of March 3, 2003, Cooper failed to complete the work or correct the code violations.

8. On March 3, 2003, the Follett's sent Cooper a certified letter regarding completion of the work and correction of the code violations. The Follett's requested Cooper contact them by March 7, 2003. As of March 11, 2003, Cooper failed to complete the work and correct the code violations.

9. On March 11, 2003, Cooper contacted the Board's agent by telephone. Cooper told the Board's agent that he had received the letter and that he would be sending his response the week of March 11, 2003. As of October 2, 2003, Cooper failed to respond to the Board's agent's request.

10. On June 23, 2003, in the Shenandoah County General District Court, Mary Follett was awarded a \$9,000.00 judgment against Cooper. The basis of the claim was "job not completed, permits not pulled – code violations, monies rec'd – by contractor." As of September 2, 2003, Cooper failed to satisfy the judgment.

11. On June 27, 2003, in Shenandoah County General District Court, Cooper was convicted of performing contracting without a license, a Class 1 misdemeanor, in violation of Section 54.1-1115 of the Code of Virginia. There is no appeal is pending and the time for appeal has lapsed.

12. Cooper failed to inform the Board in writing, within thirty (30) days, of Cooper's conviction.

Conclusion and Recommendation

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

Cooper's 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 \$250.00 be imposed, along with revocation of Cooper's license.

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

Cooper's failure to include the minimum provisions in the written contract as required, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

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

Cooper's failure to complete work and correct code violations constitutes misconduct in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

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

Cooper's conviction for performing contracting without a license, a Class 1 misdemeanor, in Shenandoah County General District Court, is a violation of Board Regulation 18 VAC 50-22-260(B)(22). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

Count 5: 18 VAC 50-22-260(B)(23) (Effective January 1, 2003)

Cooper's failure to inform the Board in writing, within thirty (30) days, of his conviction, is a violation of Board Regulation 18 VAC 50-22-260(B)(23). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

Count 6: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Cooper's failure to satisfy the judgment entered against him in the Shenandoah County General District Court, is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

Count 7: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Cooper's failure to respond to the Board's agent seeking information in the investigation of a complaint filed with the board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$250.00 be imposed, along with revocation of Cooper's license.

By:

Ruth Ann Wall
Presiding Officer
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 2705061060 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: GARY EUGENE GRAHAM
T/A GARY'S REMODELING
LICENSE NUMBER 2705052908**

FILE NUMBER: 2004-00080

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Gary Eugene Graham, t/a Gary's Remodeling (Graham) on November 20, 2003, and by reschedule notice on January 20, 2004. The following individuals participated at the conference: Gary Graham, Respondent; Joseph Kaestner, Attorney for Respondent; Frances A. Robinson, Complainant; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, presiding Officer.

Background

On June 18, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Frances A. Robinson (Robinson) regarding a contract entered into with Gary Eugene Graham (Graham), t/a Gary's Remodeling.

On March 13, 2003, Robinson entered into a contract with Graham, in the amount of \$13,500.00, to build an addition at 807 Sunnyside Avenue, Hopewell, Virginia.

Summation of Facts

1. The contract used by Graham in the transaction failed to contain: (a) when the work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause, (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.
2. On June 20, 2003, a review of the licensing records of the Board for Contractors revealed Graham was issued Class C contractor's license number 2705052908 on October 8, 1999.
3. Graham failed to obtain a Class B license in order to perform work in excess of the \$7,499.00 limit of a Class C license.
4. The contract specified "Contractor will be responsible for getting all permits."
5. On March 25, 2003, Graham commenced work by beginning the demolition work.

6. Michel J. Casella (Casella), Building Official with the City of Hopewell, advised Robinson and Investigator Becky C. Angelilli, the Board's agent, that Graham failed to obtain a building permit prior to demolition and the commencement of work, in violation of Section 109.2 of the Virginia Uniform Statewide Building Code.

7. On May 28, 2003, Graham applied for a building permit for work performed at 807 Sunnyside Avenue, Hopewell, Virginia. On June 10, 2003, the City of Hopewell notified Graham that the building permit application was not approved because the plans did not meet the set back requirements.

8. As of April 4, 2003, Graham removed the shingles, siding, and inside paneling. On April 23, 2003, Graham left the job and failed to return to complete the work.

9. On March 14, 2003, Robinson paid Graham \$7,000.00 by check, as a deposit.

10. On May 28, 2003, Rose Graham told Robinson that Graham would refund money received minus the work done by Graham.

11. On June 5, 2003, Robinson sent Graham a certified letter requesting Graham return the \$7,000.00 received. During the IFF, Kaestner, Attorney for Graham, stated that he mailed a check from his escrow account to Robinson on February 25, 2004, in refund of the \$7,000.00.

12. In a letter dated July 30, 2003, Joseph W. Kaestner (Kaestner), Attorney representing Graham, advised Investigator Becky Angelilli, the Board's agent, that Graham's expenditures totaled \$3,873.42, and that the \$3,216.58 balance would be held in escrow pending a resolution.

13. During the IFF, Attorney Kaestner stated Graham has a new contract form containing the Board requirements. Graham stated that he would provide the Board with a copy of his new contract within 7 working days of this conference.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective January 1, 2003)

Graham's failure to make use of a legible written contract that contains all provisions specified in the board regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(27) (Effective January 1, 2003)

Graham's failure to obtain a Class B license in order to perform work in excess of the \$7,499.00 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 \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(6) (Effective January 1, 2003)

Graham's failure to obtain a building permit prior to demolition and the commencement of work, in violation of Section 109.2 of the Virginia Uniform Statewide Building Code, is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(15) (Effective January 1, 2003)

Graham's failure to complete the work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(16) (Effective January 1, 2003)

Graham's retention or misapplication of funds paid, for which work is either not performed or performed only in part, is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Kaestner, Attorney for Graham, stated that he mailed a check from his escrow account to Robinson on February 25, 2004, in refund of the \$7,000.00. However, Robinson has not received the funds as of today. Therefore, I recommend revocation of Graham's license.

By:

Ruth Ann Wall
Presiding Officer
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 2705052908 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: THOMAS W. CROWE, SR
LICENSE NUMBER 2710 014714**

FILE NUMBER: 2002-02372

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Thomas W. Crowe, Sr. on December 11, 2003. The following individuals participated at the conference: Thomas W. Crowe, Sr., Respondent; Barbie Dawson, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On January 31, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from John and Sue Bane (the Banes) regarding work performed by Thomas W. Crowe Sr. (Crowe).

On or about April 16, 2001, the Banes entered into a verbal agreement with Crowe Septic Inc., in the amount of \$1,600.00, to move the septic tank and lines at 8251 Webster Drive, Roanoke, Virginia.

On April 26, 2001, the Banes applied for a sewage disposal and/or water supply permit for repair septic work to be performed at 8251 Webster Drive, Roanoke, Virginia. The Banes were issued permit number R-01-180-0154.

On May 11, 2001, David Taylor (Taylor), Roanoke Environmental Health Specialist Senior, inspected the work completed by Crowe. Taylor passed the inspection but told Crowe to plug a drain hole in the bottom of the tank. Crowe agreed to plug the drain.

On May 11, 2001, Crowe certified the completion statement for the Department of Health regarding the septic work performed at the subject property. The completion statement indicated "Name of Company/Corporation/Individual: Crowe Septic Inc."

On May 17, 2001, the Banes paid Crowe Septic Inc. \$1,400.00 by check.

On May 21, 2001, a Sewage Disposal System Operation Permit was issued for the subject property.

On June 7, 2001, Crowe Septic Inc. sent the Banes an invoice, in the amount of \$200.00 for the remaining balance, for the work performed at the subject property. On July 23, 2001, the Banes paid Crowe Septic Inc. \$200.00 by check.

In a response letter dated March 28, 2002, Crowe admitted to performing work at the subject property.

A review of the State Corporation Commission records revealed Crowe Septic Inc. became incorporated on May 26, 1992. The records further revealed Crowe was President of the corporation.

A review of the licensing records of the Board for Contractors revealed Crowe was issued Master Plumber license number 2710014714 on July 1, 1995.

Summation of Facts

1. In August 2001, Weeks Construction (Weeks) began construction of an addition at the subject property. Weeks subcontracted James Barlow Excavating (Barlow) to dig the footers. On or about August 6, 2001, Barlow dug the ground for the footers and noticed the smell of sewage. The next day Barlow found the excavation filled with 6 inches of sewer water. Overnight, the footers had filled with effluent.
2. On August 9, 2001, Weeks hired Leonard Wagoner (Wagoner), SUBTEC Inc., to survey the Banes' site. Wagoner noted "We observed the footing excavation or the proposed addition. Water was present in the footing from the septic system." Wagoner further noted "We recommend backfilling with No.57 stone."
3. On August 9, 2001, Crowe pumped the tank and plugged the septic tank hole at the subject property.
4. As a result of the leak from the septic tank, extra work had to be done to ensure the footers could support the new building. The Banes were charged extra for undercutting the footer due to the septic tank leaking and for an engineer to evaluate how to correct the problem.
5. On August 25, 2001, Barlow sent Weeks invoice number 077189, in the amount of \$950.00, for "extra charge for undercutting footer due to septic tank leaking" and "advised to under cut by Subtec, bring up to subgrade with #57 gravel."
6. On January 11, 2002, Crowe Septic LLC registered with the State Corporation Commission as a limited liability company.
7. On November 17, 2003, a review of the licensing records of the Board for Contractors revealed Crowe Septic LLC was issued Class C Contractor's license number 2705068187 on April 25, 2002.

Conclusion and Recommendation

Count 1: 18 VAC 50-30-190(5) (Effective July 7, 1999) (Crowe's failure to install a plug in the septic tank during initial installation constitutes misconduct in the practice of a trade)

There is no evidence to prove that Crowe did not install a plug, therefore, I recommend that Count 1 be closed with a finding of no violation.

Count 2: 18 VAC 50-30-190(1) (Effective July 7, 1999) to wit §54.1-1103

Crowe's failure to obtain a contractor's license prior to performing work in excess of \$1,000.00 is a violation of Board Regulation 18 VAC 50-22-190(1). Therefore, I recommend that a monetary penalty of \$250.00 be imposed for a violation of this regulation.

By:

Ruth Ann Wall
Presiding Officer
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 2710 014714 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: MEADOWS HOMES INC.
LICENSE NUMBER 2701 035984**

FILE NUMBER: 2003-00829

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Lilo Thompson, President of Meadows Homes, Inc. on December 11, 2003. The following individuals participated at the conference: Joanna Johncox, Complainant; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Additionally, Lilo Thompson, participated at the conference by telephone, on behalf of Meadows Homes, Inc., Respondent.

Background

On September 12, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Joanna Johncox (Johncox) regarding a contract entered into with Meadows Homes Inc. (Meadows).

On September 22, 2001, Johncox entered into a contract with Meadows, in the amount of \$162,000.00, to set a Fleetwood Manufactured Home at Lot 6, Hunters Run Estates, King George County, Virginia. (NOTE: The physical address is 12180 Mitchell Tree Lane, King George, Virginia).

On September 22, 2003, a review of the licensing records of the Board for Contractors revealed Meadows Homes Inc. was issued Class A Contractor's license number 2701035984 on January 27, 1990. The records further revealed the business name was changed from Meadows Corporation, t/a Meadow Modular & Mobile Homes Sales, to Meadows Homes Inc. on October 24, 2002.

According to the minutes of the May 1, 1994, special meeting of stockholders, directors, and officers of the Meadows Corporation, Michael Thompson (M. Thompson) agreed to resign from Meadows and Lilo Thompson (L. Thompson) was unanimously elected President of Meadows.

Summation of Facts

1. In a letter dated October 7, 2002, M. Thompson advised Investigator Philip H. Underwood, the Board's agent, and the Board for Contractors that M. Thompson has not been employed by Meadows since October 1989.
2. On September 22, 2003, a review of the licensing records of the Board for Contractors revealed M. Thompson was added as a member of the Responsible Management, as the Vice President, for license number 2701035984 on March 7, 1992, and removed as a member of the Responsible Management, as the Vice President, on October 9, 2002. The records further revealed the firm has no Responsible Management.
3. On September 22, 2003, a review of the licensing records of the Board for Contractors revealed M. Thompson was added as the Designated Employee for license number 2701035984 on March 7, 1992, and removed as the Designated Employee on October 9, 2002. The records further revealed the firm has no Designated Employee.
4. On September 22, 2003, a review of the licensing records of the Board for Contractors revealed M. Thompson was added as the Qualified Individual for license number 2701035984 on February 25, 1994, for the modular/manufactured building contracting (MBC) specialty and on March 7, 1992, for the specialty contractors (SVC) specialty. The records further revealed M. Thompson was removed as the Qualified Individual on October 9, 2002, for the modular/manufactured building contracting (MBC) specialty and on February 25, 1994, for the specialty contractors (SVC) specialty. The records further revealed the firm has no Qualified Individuals.
5. L. Thompson used the name Meadows Homes, Inc. in September of 2001, however, at that time of the contract, the license name was Meadows Corporation, t/a Meadow Modular & Mobile Homes Sales.
6. The contract used in the transaction by Meadows failed to contain: (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) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) 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.

7. On October 16, 2001, building permit number BMD-6-01 was obtained for the work to be performed at the subject property.

8. Meadows hired Atkins Excavating to clear the land, dig footers and perimeter, pour concrete and install the septic field.

9. On November 15, 2001, Meadows delivered the manufactured home to the subject property. Meadows built the piers, anchored and strapped the home, and called the County for inspections. The inspection was rejected and Meadows was instructed to redo a pier. Meadows dug another hole, poured concrete, and built a pier that was approved the County.

10. In November 2001, Meadows started setting the manufactured home on the foundation. Meadows noticed the floors were level except there was a 1 ½" gap between the middle and back section. Since Meadows could not get the ceiling together in the living room, Meadows racked the house but still could not get the ceiling together. Meadows reported the problem to Fleetwood, who sent Thomas Jones (Jones) to look at the problem. Jones corrected the problem but took the home off the piers, which caused the floors to be uneven. Meadows adjusted the piers and had the piers re-inspected by the County.

11. In a letter dated January 23, 2002, Charles Snead (Snead), attorney representing Johncox, notified Meadows of problems with the construction of the home. Snead noted "A lot of these problems are due to the house not being set properly. It is not level, which has caused the entire house to bend and the roof to sag and not join properly" and "The roof does not set properly on the house and there are gaping holes in the roof and wall on the upper level. Ms. Johncox believes this is due to the footings never being properly installed, and the house was not set properly."

12. In a letter dated March 14, 2002, Snead requested Meadows correct problems with the construction of the home before closing. Snead noted that the County refused to issue an Occupancy Permit because of the failures in construction of the home. Snead further noted "one room of this house was levelled (sic) properly, but piers under the rest of the house are still not levelled (sic) and some of the piers do not rest on concrete footers, which is a violation of the County Code and the County will not issue an Occupancy Permit."

13. On April 4, 2002, a final inspection was approved for building permit number BMD-6-01. On April 5, 2002, a Certificate of Occupancy was issued for the subject property.

14. In a letter dated May 3, 2002, Snead requested Meadows complete the home according to the contract, remove the home and pay for the well, driveway, septic and drainfield, and clearing and grading, in the amount of \$20,000.00, or deduct \$20,000.00 from the closing price for the cost of hire others to complete and correct the work. Snead noted "[T]he home was never set properly on a foundation and levelled (sic) properly and put together according to the set-up manual, or according to the standards of the trade. This has caused a multitude of problems throughout the house, both inside and outside, as previously set forth in my letters dated January 11, 2002 and March 4, 2002."

15. In a letter dated July 11, 2002, Carroll E. Smith (Smith), attorney representing Johncox, notified Meadows that Johncox was rescinding the contract and requested Meadows remove the manufactured home from her property.

16. On August 9, 2002, at the request of Johncox, Douglas Wall (Wall) of Wall Home Inspection performed a pre-settlement inspection of the subject property. In his report, Wall made the following observations:

- The rear of the roof line appears to be higher in the center and lower on both ends. This condition is only visible on the rear portion of the house. It appears the house was not checked for being leveled in the process of setting it on the foundation.
- Settling crack. This home should not be experiencing as many cracks as was seen.
- The connecting wall in the utility room has daylight coming through the corner of the wall. Bad fit from outside to see daylight.
- The window in the front bedroom will not open. No form of egress in a fire situation.
- There is already wall separation in the master bath wall.
- There is a separation in the ceiling between two sections.
- There are support block piers under the house that have no footer. Some have plywood installed under the block.
- There is block supports with a 2" concrete pad supported by wooden shims.
- Block concrete support pads that are 1-2" thick. Pads should be thicker than 2".
- None of the block supports have any concrete between the blocks except the one indicated in the picture. The blocks need to have at least concrete troweled on the exterior of the blocks to tie them together.

17. On August 25, 2002, Johncox received a written estimate from Professional Building Services, Inc., in the amount of \$44,568.75, to remove the home from the foundation, correct deficiencies, and re-set the home at the subject property.

18. On September 27, 2002, Fleetwood made repairs to the manufactured home.

Conclusion and Recommendation

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

Meadow's failure to notify the board of any change in the officers of a corporation within 90 days of the change is a violation of Board Regulation 18 VAC 50-22-220(A). Therefore, I recommend that a monetary penalty of \$100.00 be imposed for a violation of this regulation.

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

Meadow's failure to notify the board of any change of designated employee within 90 days of the change is a violation of Board Regulation 18 VAC 50-22-220(B). Therefore, I recommend that a monetary penalty of \$100.00 be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-220(C) (Effective September 1, 2001)

Meadow's failure to notify the board of any change of qualified individual within 45 days of the change is a violation of Board Regulation 18 VAC 50-22-220(C). Therefore, I recommend that a monetary penalty of \$100.00 be imposed for a violation of this regulation.

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

Meadow's failure to operate under the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$100.00 be imposed for a violation of this regulation.

Count 5: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Meadow's failure to make use of a legible written contract which contains the minimum provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$100.00 be imposed for a violation of this regulation.

Count 6: 18 VAC 50-22-260(B)(5) (Effective September 1, 2001) (Meadow's negligence and/or incompetence in the practice of contracting for performing work that has deficiencies)

Based on the record, the work performed by Meadow's and Fleetwood Homes was inspected and approved and on April 5, 2002, a Certificate of Occupancy was issued. Therefore, I recommend that Count 6 be closed with a finding of no violation.

By:

Ruth Ann Wall
Presiding Officer
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 035984 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

BOARD FOR CONTRACTORS

**RE: SHAWN W. KELLY
T/A HOME IMPROVEMENT
LICENSE NUMBER 2705 064572**

FILE NUMBER: 2003-02782

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Shawn W. Kelly, t/a Home Improvement, on December 10, 2003. The following individuals participated at the conference: Shawn Kelly, Respondent; Stephen and Barbara Ferriell, Complainants; Jenny W. Crockett, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On April 11, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Stephen and Barbara Ferriell (the Ferriells) regarding work performed by Shawn W. Kelly (Kelly), t/a Home Improvement.

On February 18, 2003, the Ferriells entered into a verbal agreement with Kelly, in the amount of \$1,700.00, to build an A-frame roof over two existing mobile homes at 28149 Main Street, Hallwood, Virginia.

On February 19, 2003, Kelly commenced work on the project.

On February 19, 2003, the Ferriells paid Kelly \$850.00 by check. On March 12, 2003, the Ferriells paid Kelly \$250.00 by check.

On March 6, 2003, the Ferriells obtained building permit number B2003-0140 for the work being performed at the subject property. The building permit indicated "CONTRACTOR: Shwan (sic) Kelley, Hallwood, VA – Class C=064572 (Exp. 8/31/03)."

Summation of Facts

1. Kelly failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, signed by all parties, prior to commencement of work and acceptance of payments.
2. In February 2003, the Ferriells notified Kelly that the interior was damaged after several rainstorms. Between March 2003 and April 2003, the Ferriells repeatedly told Kelly about the water damage. In the end of April 2003, the Ferriells contacted Kelly to inquire about completion of the roof work and repair of the water damage. Kelly told the Ferriells that he would fix and complete the roof work and water damage, but did not provide any specific dates of when Kelly would perform the work.
3. In May 2003, Kelly returned to the subject property to continue working on the roof. As of May 12, 2003, Kelly failed to complete the following items:
 - install 6 support poles,
 - install soffits,
 - abate items in the Notice of Violation

- request the final inspection, and
- repair water damaged areas to include ceiling, walls of the dining room, living room, and kitchen areas.

On May 12, 2003, Kelly told Investigator Shelby Smith-Hill, the Board's agent, that the work would be completed by May 13, 2003.

4. On March 10, 2003, Mark Bowden (Bowden), Inspector for the County of Accomack, issued a Notice of Violation for work being performed at 28149 Main Street, Hallwood, Virginia.

5. On June 3, 2003, Bowden issued a Notice of Violation to Kelley (sic) for building code violations. Bowden noted the following violations of the Virginia Uniform Statewide Building Code (USBC):

- Ventilation required in roof constructed over mobile homes, in violation of Section 806.1;
- Rafters shall be tied with a rafter tie, in violation of Section 802.3;
- Roof tie-downs required on all rafters and installed as per manufacturer's instruction, in violation of Section 802.11;
- Headers supporting back roof are not bearing on support posts, in violation of Section 602.6;
- Vent extension above roof's vents pipe shall terminate at least 6 inches above the high side of the penetration. Vent pipe also needs to be glued, in violation of Section 3601.52;
- Gable ends need to be framed in with 2 X 4 -24" on center and sheathing fastened to studs, in violation of Section 602.3d;
- Performance: All construction work shall be performed and completed to secure the results intended by the USBC, in violation of Section 113.1.

Bowden instructed Kelly to correct the violations within thirty (30) days. As of July 24, 2003, Kelly failed to abate the Notice of Violation.

7. During the IFF, Kelly stated he requested an extension to correct the building code violations, and that when he received documentation from the Department of Professional and Occupational Regulation, he assumed at that point that he was no longer required to perform work at the subject property.

8. On April 25, 2003, Investigator Shelby Smith-Hill, the Board's agent, made a written request to Kelly at the address of record of 12027 Church Street, P.O. Box 122, Hallwood, Virginia 23359, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a response be received by May 13, 2003. On May 13, 2003, the Board's agent received Kelly's written response.

9. On June 13, 2003, the Board's agent made a written request to Kelly at the address of record of 12027 Church Street, P.O. Box 122, Hallwood, Virginia 23359, requesting a written response to additional information received by the Board's agent. The Board's agent requested the documents be received by June 27, 2003.

10. On July 22, 2003, and September 2, 2003, the Board's agent attempted to contact Kelly at (757) 701-5547; however, the Board's agent received a message that the telephone number was disconnected.

11. Kelly failed to provide complete information to the Board's agent's request.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective January 1, 2003)

Kelly's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend that a monetary penalty of \$50.00 be imposed for a violation of this regulation. In addition, I recommend Kelly successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(6) (Effective January 1, 2003)

Kelly's failure to complete the roof work and repair the water damage after promising to do so, is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that no sanction be imposed for a violation of this regulation because the homeowners would not allow Kelly back on the property to make the repairs.

Count 3: 18 VAC 50-22-260(B)(25) (Effective January 1, 2003)

Kelly's failure to abate violations 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 \$50.00 be imposed for a violation of this regulation.

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

Kelly's failure to provide complete information to an investigator seeking information in the investigation of a complaint is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$50.00 be imposed for a violation of this regulation.

By:

Ruth Ann Wall
Presiding Officer
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 064572 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS

RE: SAMUEL D. STANLEY
T/A SAM & JANICE YOUR PERSONAL PAVERS
LICENSE NUMBER 2705 025133

FILE NUMBER: 2003-02461

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on February 26, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Samuel D. Stanley, t/a Sam & Janice Your Personal Pavers, on December 10, 2003. The following individuals participated at the conference: Samuel D. Stanley, Respondent; Janice Stanley, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On March 10, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from B. Delaine Douglas (Douglas) regarding a contract entered into with Personal Pavers.

On May 3, 2002, Douglas entered into a verbal agreement with Samuel D. Stanley (Stanley), t/a Sam & Janice Your Personal Pavers, in the amount of \$1,400.00, to replace the driveway at 2618 Reba Court, Glen Allen, Virginia. On May 3, 2002, Douglas paid Stanley \$1,400.00.

After Stanley performed the work, Douglas discovered cracking and dimples. Douglas attempted to contact Stanley regarding the poor workmanship on the driveway. On May 9, 2002, Douglas stopped payment on the check because Stanley failed to respond or return to make the repairs. On May 9, 2002, Stanley contacted Douglas and returned to the subject property to inspect the driveway.

On May 23, 2002, Stanley told Douglas that Stanley could cut out the middle, damaged portion of the driveway and repave it for an additional \$200.00. On May 23, 2002, Douglas paid Stanley \$1,600.00.

On May 23, 2002, Douglas entered into a contract with Personal Pavers, in the amount of \$1,600.00, for services performed and to repair the driveway at 2618 Reba Court, Glen Allen, Virginia. The contract was signed by Sam Stanley and indicated Class B Contractor's license number 2705025133.

On July 1, 2003, a review of the licensing records of the Board for Contractors revealed Samuel D. Stanley, t/a Sam & Janice Your Personal Pavers, was issued Class B Contractor's license number 2705025133 on August 3, 1994.

Summation of Facts

1. Stanley failed to operate in the name in which the license was issued.
2. The contract used by Stanley in the transaction failed to contain: (a) when the work is to begin and (h) the contractor's license expiration date.
3. During the IFF, Stanley provided a copy of his new revised contract which indicates the correct trading name.
4. During the IFF, Stanley stated he completed the Basic Contractor Licensing Class, and showed his certificate of completion.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective September 1, 2001) (Stanley's failure to operate under the name in which the license was issued)

I recommend that Count 1 be closed with a finding of no violation.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001) (Stanley's failure to make use of a legible written contract which contains the minimum provisions specified in the regulation)

I recommend that Count 2 be closed with a finding of no violation.

By:

Ruth Ann Wall
Presiding Officer
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 025133 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

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

1. Name: Ruth Ann Wall
2. Title: Presiding Officer
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on February 26, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

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

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

Ruth Ann Wall
Signature

2-26-2004
Date