

**BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
June 1, 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.

Robert Burch, Board member, presided. No other Board members were present.

Douglas W. Schroder 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

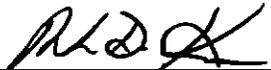
C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney
S = Staff Member

Participants

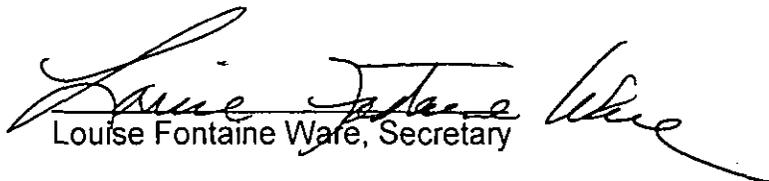
- | | |
|--|---|
| 1. Thomas E. Dooley
t/a Century Roofing
File Number 2003-01343 (Disc) | T. Dooley – R
David Lee Law -- W
Wayne Ozmore --S |
| 2. Steven W. Johnson
t/a Albemarle Enterprises
File Number 2003-03235 (Disc) | Steven Johnson – R |
| 3. Bedford Continuous Gutter Inc.
t/a Bedford Continuous Gutter and Remodeling
File Number 2003-03371 (Disc) | None |
| 4. Geoffrey O. Dean
File Number 2004-00341 (Disc) | Dean – R |
| 5. Geoffrey O. Dean
File Number 2004-02417 (Disc) | Dean – R |
| 6. Botanical Concepts Inc.
File Number 2003-01823 (Disc) | T. D. Watkins -- C |

The meeting adjourned at 1:45 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: THOMAS E. DOOLEY
T/A CENTURY ROOFING
LICENSE NUMBER: 2705 043525

FILE NUMBER: 2003-01343

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 1, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Thomas E. Dooley, t/a Century Roofing, on April 12, 2004. The following individuals participated at the conference: Thomas E. Dooley, Respondent; George Bolis, Complainant; David Lee Law, Witness; Douglas W. Schroder, Staff Member; and Robert Burch, presiding Board Member.

Background

On October 28, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from George Bolis (Bolis) regarding a contract entered into with Thomas E. Dooley (Dooley), t/a Century Roofing.

On May 10, 2001, George Bolis entered into a contract with Dooley, in the amount of \$8,600.00. Bolis received an estimate and bill (contract) from Century Roofing Systems, in the amount of \$8,600.00, to install siding and wrap at 1063 Tall Oak Drive, Virginia Beach, Virginia. The contract was signed by Marie Bolis and Tom Dooley.

On or about May 10, 2001, Bolis paid Dooley \$4,000.00 by check.

On or about May 12, 2001, Dooley commenced work.

Dooley verbally agreed to complete the job no later than June 6, 2001. Between May 24, 2001 and June 30, 2001, Dooley failed to perform work on the subject property.

On June 6, 2001, Dooley advised Bolis that the job would not be finished as promised. On June 6, 2001, Dooley promised to complete the work by June 21, 2001, in exchange for Bolis paying \$3,600.00 immediately and the \$1,000.00 balance upon completion of the project. On or about June 6, 2001, Bolis paid Dooley \$3,600.00 by check.

Between June 8, 2001 and June 23, 2001, Dooley failed to return to perform any work. On or about July 9, 2001, Dooley returned to the subject property, picked up the trash, and departed. Bolis has not seen Dooley since on or about July 9, 2001.

In August 2001, Dooley promised Bolis and Bolis' attorney that Dooley would finish the job.

On October 10, 2001, Bolis hired Mark Lynch (Lynch), t/a Lynch Construction Company, in the amount of \$3,200.00, to complete and fix the work performed by Dooley at the subject property.

Summation of Facts

1. The contract used by Dooley in the transaction failed to contain subsections: (a) when the work is to begin and the estimated completion date, (b) statement of any schedule for progress payments, (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.

2. On February 24, 2004, a review of the licensing records of the Board for Contractors revealed Dooley was issued Class C Contractor's license number 2705043525 on September 17, 1998.

3. Dooley 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.

4. On June 5, 2003, Tasha McCall, Planning Aid III with the Permits and Inspections Office of the City of Virginia Beach, advised Investigator Wayne J. Ozmores, Jr., the Board's agent, that Dooley failed to obtain a building permit prior to the commencement of work, in violation of Section 109.1.1 of the Virginia Uniform Statewide Building Code.

5. Bolis and Dooley entered into a verbal agreement to cap all exposed wood, replace window shutters, gutters, and downspouts on the residence and garage, and replace electric lights on the front side of the residence.

6. In a written response dated May 5, 2003, Dooley stated "wood was covered as agreed entirely with no complaints." Dooley also stated "the gutter on front of house was not a part of our original agreement, but he asked at one point would we put one up. I stated we would, as a kind gesture because it was only about 50 ft in two pieces on the front, and I was trying to be good to he & his wife." Dooley further stated "the lights also are not part of our agreement in the beginning. He & his wife were not wanting put back the old lights because of their condition & wanted to have more bought. They agreed to go get them & I agreed to install them."

7. Dooley failed to provide written change orders, signed by all parties, for modifications to materials and scope of the work to be performed.

8. Dooley failed to honor promises to complete the work.

9. Between July 1, 2001 and September 15, 2001, Bolis attempted to contact Dooley several times regarding completion of the work. Bolis requested the work be completed by October 1, 2001. Dooley promised to return and finish the work.

10. Dooley failed to install siding on one side of the house, finish capping all the exposed wood, install shutters, gutters, or downspouts, and reinstall light fixtures, telephone box, or electric meter.

11. During the installation of the siding, Dooley detached the meter base and left the meter base attached to the circuits inside the home. After installing the siding, Dooley failed to refasten the meter base to the side of the house. Between May 2001 and October 2001, the meter base was left hanging.

12. Between May 2001 and October 2001, the light fixtures to be reinstalled by Dooley were left hanging, suspended by the electrical wires.

13. On June 23, 2001, Dooley's employee requested Bolis pay the remaining balance of \$1,000.00. Bolis refused to pay the \$1,000.00 because the house was not finished. Dooley's employee then threw a 2 x 4 into the new siding on Bolis' property and punched a hole (1/2" in diameter) into the new siding.

14. On October 23, 2001, Bolis received a list from Mark A. Lynch (Lynch), t/a Lynch Construction, for the following work performed by Lynch and observations of the work performed by Dooley:

- Replaced 150' metal rap that was not installed properly;
- Replace soffit in front & back with vented soffit;
- Replace 1 pc broken siding (sic) (contractor used double 4.5" and double 5" siding (sic));
- Metal rap was overlapped wrong; and
- Contractor did not build returns on corners of soffit; and
- Lynch Construction spent 4 days replacing & fixing metal & vinyl that was not installed properly. Lights, shutters and gutters were not installed at all.

15. Cox Cable had to replace the digital telephone box at the subject property because Dooley dropped the original digital telephone box and broke it.

16. On January 14, 2003, the Board's agent made a written request to Dooley at the address of record of 1878 General Boothe Boulevard, Virginia Beach, Virginia, requesting a written response and supporting documents regarding the complaint filed. The Board's agent requested the documents be received by January 31, 2003.

17. In a written response dated May 5, 2003, Dooley told the Board's agent that he searched for the Bolis contract, but was unable to locate a copy of the contract.

18. Dooley failed to maintain for a period of three (3) years from the date of the contract a complete and legible copy of all documents relating to that contract.

19. On June 13, 2002, in the Virginia Beach General District Court (Civil Division), Bolis was awarded a \$3,200.00 judgment against Dooley. Dooley failed to satisfy the judgment.

20. During the IFF, Dooley testified that prior to the IFF, he was made aware of the absence of some of the Board's required contractual provisions and that he has since added the necessary provisions to his contract.

21. Dooley also testified at the IFF that he does not recall why he failed to obtain the required building permit prior to commencement of work.

22. During the IFF, Dooley testified that he did not believe that he needed a written change order for the installation of the gutter and the lights because he did not intend to charge Bolis for either of those modifications to the existing contract.

23. During the IFF, Dooley testified that he did tell Bolis that Dooley would try to complete the work prior to June 21, 2001, but that there was no promise to complete the work before that date. He further stated that Bolis had paid the \$3,600.00 on June 6, 2001, not as a result of a promise by Dooley to complete the work before June 21, 2001, but because Bolis was leaving for vacation and would be gone for two weeks.

24. Dooley also testified at the IFF that the reason he did not complete the work at the subject property was because Dooley was instructed by Bolis to not return to the property. He further stated that Bolis had contracted with Lynch to complete the work before Dooley could complete the work.

25. During the IFF, Law testified that the meter base and the light fixtures were repaired prior to June 6, 2001, and that the 2 x 4 in question may have possibly damaged the siding on the house when the 2 x 4 was thrown into the trash pile but that he never threw the 2 x 4 at the house. Law also stated that he was not aware of any holes in the siding.

26. During the IFF, Dooley testified that either he or his attorney is in possession of the Bolis contract but that Dooley did not have the contract in his possession at the time that the Board's agent requested a copy of the contract.

27. Dooley testified at the IFF that he had been in contact with Bolis' attorney to attempt to satisfy the judgment awarded to Bolis by making a partial payment. Dooley further stated that Bolis refused the offer and the judgment remains unsatisfied.

Conclusion and Recommendation

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

Dooley's failure to make use of a legible written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend that a monetary penalty of \$350.00 be imposed. In addition, I recommend that Dooley 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)(1) to wit: § 54.1-1103 of the Code of Virginia (Effective May 1, 1999)

Dooley'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)(1) to wit: § 54.1-1103 of the Code of Virginia. Therefore, I recommend that a monetary penalty of \$850.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Dooley's failure to obtain a building permit prior to the commencement of work 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 \$2,500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 4: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Dooley's failure to obtain written change orders, signed by all parties, for modifications to the materials and scope of the work to be performed 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 \$2,500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 5: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Dooley's failure to honor promises to complete the work contracted for 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 \$2,500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 6: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Dooley's failure to complete the work contracted for constitutes abandonment and is a violation of Board Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 7: 18 VAC 50-22-260(B)(5) (Effective May 1, 1999)

Dooley's failure to refasten the meter base and to reinstall the light fixtures along with Dooley's actions of performing work which contains deficiencies, as outlined in the list provided to Bolis by Lynch, and Dooley's action of dropping and breaking the digital telephone box and the action of Dooley's employee throwing a 2 x 4 into the new siding on the subject property constitute gross negligence in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 8: 18 VAC 50-22-260(B)(10) (Effective May 1, 1999)

Dooley's failure to maintain for a period of three years from the date of the contract a complete and legible copy of all documents relating to that contract is a violation of Board Regulation 18 VAC 50-22-260(B)(10). Therefore, I recommend that a monetary penalty of \$500.00 be imposed. In addition, I recommend that Dooley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 9: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Dooley's failure to satisfy the judgment awarded to Bolis in the Virginia Beach General District Court is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Dooley's license. However, I recommend that the license revocation be waived if Dooley provides evidence that the judgment has been satisfied within thirty (30) days of the effective date of the final order.

By:

Robert Burch
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 043525 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

BOARD FOR CONTRACTORS

**RE: STEVEN W. JOHNSON
T/A ALBEMARLE ENTERPRISES
LICENSE NUMBER 2705 004789**

FILE NUMBER: 2003-03235

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 6, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Steven W. Johnson, t/a Albemarle Enterprises (Albemarle) on October 17, 2003. The following individuals participated at the conference: Sara Johnson, Complainant; Jennifer Kazzie, Staff Member; and Robert O. Burch, Jr., Presiding Board Member. Neither Steven W. Johnson, *nor anyone on behalf of Albemarle Enterprises, attended the IFF.*

By a letter dated March 12, 2004, Steven W. Johnson, t/a Albemarle Enterprises, was notified that the IFF would reconvene on June 1, 2004. The following individuals participated at the conference: Steven W. Johnson, t/a Albemarle Enterprises, Respondent; Douglas W. Schroder, Staff Member; and Robert O. Burch, Jr., presiding Board Member.

Background

On May 22, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Sara E. Johnson (Johnson) against Steven W. Johnson, t/a Albemarle Enterprises (Albemarle).

On or about March 7, 2003, Johnson entered into a contract with Albemarle, in the amount of \$6,200.00, to construct an A Frame porch and a deck at 7049 Louisa Road, Keswick, Virginia.

Summation of Facts

1. The contract used by Albemarle in the transaction failed to contain the minimum provisions required by the Board's 2003 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (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 name, address, license number, expiration date, class of license/certificate, and classification or specialty services.

2. On May 23, 2003, a review of the licensing records of the Board for Contractors revealed Albemarle was issued Class B Contractor's license number 2705004789 on September 26, 1991, with the highway/heavy contractors (H/H) classification.
3. Albemarle practiced in a classification and/or specialty service for which the contractor was not licensed.
4. The contract specified "construction of an A-frame porch attached to existing roof structure, and a treated wood deck 28ft. long and 8ft. deep. Entire structure to be supported on 6in. X 6in. treated timbers. Porch interior ceiling to be plywood or sheetrock at owner's option. Front of porch area to be faced with closely matched blue vinyl siding, as possible."
5. On or about March 7, 2003, Albemarle commenced work. Albemarle constructed the steps and bottom of the deck. Upon commencement of work, Johnson paid Albemarle \$3,100.00.
6. On or about April 1, 2003, Albemarle requested Johnson pay an additional \$450.00 for the job. After Johnson refused to pay the additional \$450.00, Albemarle removed all the lumber and materials from Johnson's property. Albemarle failed to return to complete the work contracted for.
7. Albemarle failed to return money received for work not performed or performed in part.
8. During the IFF, Steven Johnson (S. Johnson) testified that he did not complete the work contracted for because of repeated disagreements with Johnson's husband. He further stated that he believed that he had completed approximately half of the work and that Johnson had paid approximately half of the total amount due.

Conclusion and Recommendation

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

Albemarle's failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$350.00 be imposed.

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

Albemarle'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 that a monetary penalty of \$700.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(15) (Effective January 1, 2003)

Albemarle's failure to complete work contracted for and/or to comply with the terms in the contract 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 Albemarle's license number 2705 004789.

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

Albemarle's failure to return 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). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Albemarle's license number 2705 004789.

By:

Robert O. Burch, Jr.
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 004789 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

BOARD FOR CONTRACTORS

**RE: BEDFORD CONTINUOUS GUTTER, INC.
T/A BEDFORD CONTINUOUS GUTTER AND REMODELING
LICENSE NUMBER: 2705 022129**

FILE NUMBER: 2003-03371

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 1, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Donald Dellis of Bedford Continuous Gutter, Inc., t/a Bedford Continuous Gutter and Remodeling, on April 8, 2004. The following individuals participated at the conference: Douglas W. Schroder, Staff Member; and Robert O. Burch, Jr., presiding Board Member. No one on behalf of Bedford Continuous Gutter, Inc., t/a Bedford Continuous Gutter and Remodeling, attended the IFF.

Background

On June 3, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Mary Pandolfini (Pandolfini) and Tony James (James) regarding a contract entered into with Bedford Continuous Gutter Inc. (Bedford), t/a Bedford Continuous Gutter and Remodeling.

On September 13, 2002, James entered into a contract with Bedford Continuous Gutter & Remodeling, Inc., in the amount of \$23,650.00, to construct a 16' x 20' addition and frame under deck at 135 Knollwood Drive, Troutville, Virginia. The contract indicated "CLASS A CONTRACTOR LIC. NO. 2705-022129A." The contract was signed by John Chitwood (Chitwood), as agent for Bedford Continuous Gutter & Remodeling Inc.

In September 2002, Bedford commenced work on the project.

On June 3, 2003, a review of the licensing records of the Board for Contractors revealed Bedford was issued Class A Contractor's license number 2705022129 on September 22, 1993.

Summation of Facts

1. The contract used by Bedford in the transaction failed to contain subsections: (a) when the work is to begin and the estimated completion date, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) the contractor's name, expiration date, and classification or specialty services.

2. On February 2, 2003, Pandolfini paid Chitwood \$2,500.00 to add a closet in the dining room area.
3. Bedford failed to provide written change orders, signed by all parties, for changes to the original scope of work to be performed, which resulted in an additional cost of \$2,500.00.
4. Bedford failed to complete the work contracted for, including finish all trim work for the room additions and lay floors, complete the deck, storage closet and exterior siding.
5. Pandolfini left several messages for Chitwood regarding completion of the work.
6. On September 13, 2002, Cheryl James (formerly White) paid Chitwood a total of \$9,000.00 by two checks. On October 11, 2002, Cheryl James (formerly White) paid Chitwood \$7,650.00 by check. On February 7, 2003, Pandolfini paid Chitwood \$2,500.00 by check.
7. On September 22, 2003, Pandolfini sent Chitwood a letter regarding the unfinished work and requesting a refund of the \$2,500.00 paid to add a closet in the dining room area.
8. As of November 15, 2003, Chitwood was paid a total of \$23,241.00 towards the contract price.
9. On June 21, 2003, Investigator Dale C. Amos, the Board's agent, made a written request to Bedford at the address of record of 2032 Hardy Road, Vinton, Virginia 24179, 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 7, 2003.
10. On October 3, 2003, the Board's agent made a second written request to Bedford at the address of record of 2032 Hardy Road, Vinton, Virginia 24179, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by October 17, 2003.
11. On October 3, 2003, the Board's agent made a written request to Bedford at the individual address of Donald Dellis, President of Bedford, of 108 Springhouse Circle, Vinton, Virginia 24179, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by October 17, 2003.
12. On November 10, 2003, the Board's agent visited 2032 Hardy Road, Vinton, Virginia and discovered the building at this address was vacant. Richard Carper, the adjoining neighbor, told the Board's agent that Bedford did have an office in the building at 2032 Hardy Road, Vinton, Virginia, but that no one had been there for months.

Conclusion and Recommendation

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

Bedford's failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$200.00 be imposed.

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

Bedford's failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, for modifications to an already existing contract is a violation of Board Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

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

Bedford's failure to complete the work contracted for and/or to comply with the terms in the contract 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 Bedford's license number 2705 022129.

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

Bedford's failure to return 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). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Bedford's license number 2705 022129.

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

Bedford'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 Bedford's license number 2705 022129.

By:

Robert O. Burch, Jr.
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 022129 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

**RE: GEOFFREY O. DEAN
LICENSE NUMBER: 2705 055090**

FILE NUMBER: 2004-00341

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 1, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Geoffrey O. Dean on April 21, 2004. The following individuals participated at the conference: Geoffrey O. Dean, Respondent; Douglas W. Schroder, Staff Member; and Robert O. Burch, Jr., presiding Board Member.

Summation of Facts

1. On July 14, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from James Seltzer (Seltzer) regarding work performed by Geoffrey O. Dean (Dean).
2. On August 22, 2002, Seltzer entered into a written contract with Geoffrey O. Dean, t/a Gateway Fence Company, in the amount of \$4,400.00, to construct a split rail fence at 15412 Kentwell Circle, Centreville, Virginia. The contract was signed for by Geoffrey Dean.

3. On July 16, 2003, a review of the licensing records of the Board for Contractors revealed Dean was issued Class C Contractor's license number 2705055090 on March 17, 2000.

4. In a written response dated January 16, 2004, Dean admitted to entering into a contract with Seltzer and performing the contract work at the subject property.

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

6. The contract used by Dean in the transaction failed to contain subsections: (a) 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 regarding local requirements for building permits, inspections and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license expiration date, 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.

7. During the IFF, Dean testified that he has updated his license so that it now reads Geoffrey O. Dean, t/a Gateway Fence Company.

8. During the IFF, Dean testified that he was unaware that his contract needed to contain the minimum provisions specified in the Board's Regulations but that he will make the appropriate corrections to his contract.

Conclusion and Recommendation

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

Dean's failure to operate under the name in which the license is issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$500.00 be imposed. In addition, I recommend that Dean 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)(9) (Effective September 1, 2001)

Dean's failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$300.00 be imposed. In addition, I recommend that Dean successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

Robert O. Burch
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 055090 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: GEOFFREY O. DEAN
LICENSE NUMBER: 2705 055090
FILE NUMBER: 2004-02417**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 1, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Geoffrey O. Dean, on April 21, 2004. The following individuals participated at the conference: Geoffrey O. Dean, Respondent; Douglas W. Schroder, Staff Member; and Robert O. Burch, presiding Board Member.

Background

On December 4, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from George Kolesar (Kolesar) regarding work performed by Geoffrey O. Dean (Dean).

On October 14, 2003, Kolesar entered into a written contract with Gateway Fence Company, in the amount of \$2,300.00, to construct a fence at 5407 Flint Tavern Place, Burke, Virginia. The contract was signed for by Geoffrey Dean.

On December 11, 2003, a review of the licensing records of the Board for Contractors revealed Dean was issued Class C Contractor's license number 2705055090 on March 17, 2000.

In a written response dated January 16, 2004, Dean admitted to entering into a contract with Kolesar and performing the contract work at the subject property.

Summation of Facts

1. Dean failed to operate in the name in which the license was issued.
2. The contract used by Dean in the transaction failed to contain subsections: (a) 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 regarding local requirements for building permits, inspections and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license expiration date, 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.
3. On October 24, 2003, Dean commenced the work. Dean ran out of wood and did not install the four boards. Dean told Kolesar that Dean would return on October 26, 2003.
4. After Dean failed to return on October 26, 2003, Kolesar made several attempts to contact Dean by phone. On November 4, 2003, Kolesar attempted to fax Dean a letter regarding completion of the fence.
5. On November 8, 2003, Kolesar bought the nails and four eight-foot pieces of wood and finished the work himself.
6. On October 15, 2003, Kolesar paid Gateway Fence Company \$1,150.00 by check. On October 24, 2003, Kolesar paid Gateway Fence Company \$1,150.00 by check.
7. Dean failed to refund money received for work performed in part.
8. During the IFF, Dean testified that he has updated his license so that it now reads Geoffrey O. Dean, t/a Gateway Fence Company.

9. Dean also testified at the IFF that he was unaware that his contract needed to contain the minimum provisions specified in the Board's Regulations but that he will make the appropriate corrections to his contract.

10. During the IFF, Dean testified that he intended to return to the property to install the four boards in question. Dean also testified that he has since made a refund to Kolesar in the amount of \$35.00.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective January 1, 2003)

Dean's failure to operate under the name in which the license is issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$500.00 be imposed. In addition, I recommend that Dean 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)(9) (Effective January 1, 2003)

Dean's failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$300.00 be imposed. In addition, I recommend that Dean successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(15) (Effective January 1, 2003)

Dean's failure to complete work contracted for and/or to comply with the terms in the contract is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$750.00 be imposed. In addition, I recommend that Dean successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

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

Dean's failure to return 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). Therefore, I recommend that a monetary penalty of \$2,000.00 be imposed. In addition, I recommend that Dean successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

Robert O. Burch, Jr.
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 055090 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

BOARD FOR CONTRACTORS

**RE: BOTANICAL CONCEPTS, INC.
LICENSE NUMBER: 2705 054092**

FILE NUMBER: 2003-01832

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 1, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Randolph Brown, president of Botanical Concepts, Inc. on April 27, 2004. The following individuals participated at the conference: T. D. Watkins, Complainant; Douglas W. Schroder, Staff Member; and Robert O. Burch, Jr., presiding Board Member.

Background

On January 6, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from T. D. Watkins III (Watkins) of Watkins Nurseries regarding a judgment obtained against Botanical Concepts Inc. (Botanical).

On February 20, 2004, a review of the licensing records revealed Botanical was issued Class B Contractor's license number 2705054092 on January 4, 2000, as a corporation.

On February 25, 2004, a review of the State Corporation Commission (SCC) records revealed Botanical Concepts Inc. became incorporated on November 29, 1999.

Summation of Facts

1. On August 1, 2002, in the Circuit Court of Chesterfield County, a Confession of Judgment, in the amount of \$13,440.20, was entered against Botanical for an outstanding debt owed to Watkins Nurseries.
2. On August 19, 2002, Watkins filed a two Garnishment Summons against Botanical for the outstanding judgment. The hearing was set for October 9, 2002.
3. On August 19, 2002, Watkins also filed a Writ of Fieri Facis to be served upon Botanical. On September 12, 2002, the following personal property was levied from Botanical:
 - 2 computer systems
 - printer, copy, scanner
 - 2 lawn motors
 - 1 handheld tiller
 - 1 seed thrower
 - 1 walk behind blower
 - 1 ban saw
 - assorted plants products
 - assorted trees, shrubs, bedding plants, flowers
 - assorted lawn tools
 - 1 walk behind tiller
 - 4 seed sliter
 - 3 weed eaters
 - 1 electric grinder
 - 1 fax machine.
4. The garnishments on Wachovia Bank and Messer Landscaping for Botanical's outstanding judgment were not successful because the bank account at Wachovia Bank was closed and there were no funds for garnishment from Messer Landscaping.

5. In a shipping ticket dated October 10, 2001, the billing address for Botanical indicated 1208 Hull Street, Richmond, Virginia 23224.
6. The Confession of Judgment awarded to Watkins on August 1, 2002 indicated Botanical's address at 1212 Hull Street, Richmond, Virginia. The Garnishment Summons and Writ of Fieri Facis filed by Watkins on August 19, 2002, indicated Botanical's address as 1212 Hull Street, Richmond, Virginia 23224.
7. On August 23, 2002, Eric Olson, Assistant Director for the Board for Contractors, sent a letter to Botanical at 5001 Thrush Lane, Richmond, Virginia 23227, advising Botanical it must change its address.
8. On February 20, 2004, a review of the licensing records revealed the address of record for Botanical was 5001 Thrush Lane Richmond, Virginia 23227.
9. On February 25, 2004, a review of the SCC records revealed the address of record for Botanical was 1212 Hull Street, Richmond, Virginia.
10. On January 7, 2003, Investigator Kimberly Freiberger, the Board's agent, made a written request, via certified mail, to Botanical at the address of record of 5001 Thrush Lane, Richmond, Virginia 23227, 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 23, 2003. The certified letter was signed for by Soaphis Shabazs Brown.
11. Botanical refused or failed to respond to the Board's agent.

Conclusion and Recommendation

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

Botanical's failure to satisfy the judgment awarded to Watkins Nurseries in the Circuit Court of Chesterfield County is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Botanical's license.

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

Botanical's failure to notify the board, in writing, within thirty days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(12) (Effective January 1, 2003)

Botanical's failure to respond to the Board's agent's request for supporting documentation is a violation of Board Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Botanical's license.

By:

Robert O. Burch, Jr.
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 054092 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

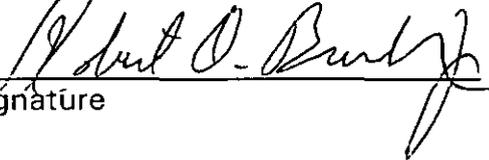
**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Robert O. Burch, Jr.
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on June 1, 2004
5. Nature of Personal Interest Affected by Transaction: _____

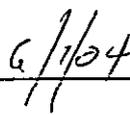
6. I declare that:

(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.



Signature



Date