

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
September 21, 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 Kirby, Board member, presided. No other Board members were present.

Doug Schroder and Joe Haughwout 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

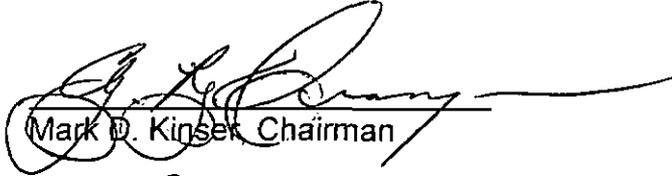
Participants

- | | |
|--|--|
| 1. Matthew Wombacher and
Body Life Dynamics
File Number 2004-04642 (RF) | Wombacher – R
Uley Norris – C Atty |
| 2. Design Four Inc.
File Number 2002-02020 (Disc)
(no decision) | Gregory Frech – R |
| 3. Barbara N. McLennan and
Ross Custom Homes LLC
File Number 2003-01586 (RF) | B. McLennan – C
Kenneth McLennan - C
S. M. Franck – C Atty
Alexander Ross – R
Stephen Sommers – R Atty |
| 4. William G. Leslie
t/a B Leslie Construction
File Number 2004-00233 (Disc) | None |

- | | |
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| 5. William G. Leslie
t/a B Leslie Construction
File Number 2004-01945 (Disc) | None |
| 6. William G. Leslie
t/a B Leslie Construction
File Number 2003-03062 (Disc) | None |

The meeting adjourned at 2:45 p.m.

BOARD FOR CONTRACTORS


Mark D. Kinser, Chairman


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

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

Re: Matthew Wombacher (Claimant) and Body Life Dynamics Inc. (Regulant)

File Number: 2004-04642
License Number: 2705068881

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 9, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Matthew Wombacher ("Claimant") through his attorney; and to Body Life Dynamics Inc. ("Regulant") to the address of record and at 14246 Spriggs Rd., Woodbridge, Virginia 22193. The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail to the Claimant was signed and received. The certified mail to the Regulant to the address of record was returned by the United States Postal Service and marked as "Not Deliverable as Addressed, Unable to Forward." The certified mail to the Regulant at the additional address was signed and received.

On August 11, 2004, a letter to reschedule the Informal Fact-Finding Conference ("IFF") was mailed, via certified mail, to the Claimant and to the Regulant. The certified mail to the Claimant was signed and received. The certified mail to the Regulant was returned by the United States Postal Service and marked as "Unclaimed."

On September 21, 2004, an IFF was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Matthew Wombacher, Claimant; Uley Norris, Claimants Attorney; Neither Body Life Dynamics Inc., Tracey Gorman, Regulant, nor anyone on its behalf appeared at the IFF; Doug Schroder, Staff Member; and Robert Kirby, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

The evidence is clear and convincing that the regulant's actions in this case were improper and dishonest in that the regulant wrongfully accepted payment and converted the money for his own use. Such actions are fraudulent and clearly meet the test for payment under the recovery fund.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$8,537.00.

By: _____
Robert Kirby
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: July 27, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Matthew Wombacher (Claimant) and Body Life Dynamics, Inc. (Regulant)
File Number: 2004-04642

BACKGROUND

On November 21, 2003, in the General District Court for the City of Alexandria, Matthew Wombacher and Heather Wombacher obtained a Judgment against Body Life Dynamics, Inc., in the amount of \$8,000.00, plus interest, \$37.00 costs, and \$500.00 in attorney fees.

The claim in the amount of \$8,537.00 was received by the Department of Professional and Occupational Regulation on June 3, 2004.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

The Judgment Order recites 'fraudulent conversion of plaintiffs' monies and breach of contract' as the basis of the award.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimants did contract with the regulant.

The Board issued Class C License Number 2705 068881 to Body Life Dynamics, Inc., on April 16, 2002. The license expires on August 31, 2004. The claimants entered into a written contract with B.L.D., Inc. on December 24, 2002 for the remodeling of the kitchen and upstairs bathroom.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was not served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did not receive pleadings and/or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on November 21, 2003. The claim was received on June 3, 2004.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimants entered into a written contract with B.L.D., Inc. for the remodeling of the kitchen and upstairs bathroom.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimant answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

Debtor's interrogatories were conducted. No assets were revealed.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Judgment Order recites 'for fraudulent conversion of plaintiffs' monies and breach of contract' as the basis of the award.

SECTION 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? In response to this question, the claimant responded, "No."

SECTION 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

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

Re: *Barabara McLennan (Claimant) and Ross Custom Builders LLC (Regulant)*

File Number: 2003-01586
License Number: 2705029225

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 7, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Barbara McLennan ("Claimant") through her attorney and Ross Custom Builders LLC ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by both the Claimant and the Regulant.

On July 27, 2004, a letter to reschedule the Informal Fact-Finding Conference ("IFF") was mailed, via certified mail, to the Claimant and the Regulant. The certified mail was signed and received by both the Claimant and the Regulant.

On September 21, 2004, an IFF was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Barbara and Kenneth McLennan, Claimants; Sheldon M. Franck, Esq., Attorney for Claimant; Alexander Ross, Responsible Management for Ross Custom Builders LLC, Regulant; Stephen V. Summers, Attorney for Regulant; Joe Haughwout, Staff Member; and Robert Kirby, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

The evidence is clear and convincing that the regulant's actions in this case were improper and dishonest. The judgment obtained in this case clearly states an award of \$80,000.00 because of improper and dishonest conduct on behalf of the regulant. The motion for judgment in this case outlines details of the impropriety and dishonesty of the regulant. During the IFF, the claimant's attorney noted that although this was a default judgment, the evidence of improper and dishonest conduct was proffered to the judge during the hearing. Although the regulant was present with his attorney at the IFF, no plausible explanation was given for the

failure of the regulant to defend against the judgment, nor was an explanation provided as to why no appeal of the judgment was filed.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$10,000.00.

By: _____
Robert Kirby
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria Traylor
Legal Assistant

DATE: May 10, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Barbara N. McLennan (Claimant) and Ross Custom Builders, LLC t/a Ross Custom Builders, LLC (Regulant)
File Number: 2003-01586

BACKGROUND

On October 17, 2002, in the Circuit Court for the City of Williamsburg and James City County, Barbara N. McLennan obtained a Judgment against Ross Custom Builders, LLC in the amount of \$80,000.00, plus interest, costs of the preceding and attorney's fees in the amount of \$5,000.00.

On March 31, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, Ross Custom Builders, LLC, filed a Chapter 7 Petition.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on December 3, 2002.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

The Judgment recites "Improper and Dishonest Conduct" as the basis of the award.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimant did contract with the regulant.

The Board issued Class A License Number 2705029225 to Ross Custom Builders LLC t/a Ross Custom Builders LLC on June 1, 1995. The license expired on June 30, 2003. The claimants entered into a written contract with Ross Custom Builders LLC October 12, 2000 for the construction of a house.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did receive pleadings and/or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on Month October 17, 2002. The claim was received on December 3, 2002.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimant entered into a written contract with the Ross Custom Builders LLC October 12, 2000 for the construction of a house.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimant answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

Debtor's interrogatories were conducted. Minimum assets were revealed. According to the claimant's attorney the account receivable are disputed. Ross Custom Builders, LLC filed Chapter 7 bankruptcy protection on March 31, 2003.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Judgment recites "Improper and Dishonest Conduct" as the basis for the award.

Section 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? In response to this question, the claimant responded, "No."

Bankruptcy documentation was received on May 1, 2003. In a letter from the claimant's attorney dated April 30, 2003, the letter states the claimant was not advised to file a Proof of Claim with the court.

McLennan & Ross
Page 4

Section 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

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

Re: William G. Leslie, t/a B Leslie Construction

File Number: 2004-00233
License Number: 2705016367

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to William G. Leslie ("Leslie"), t/a B Leslie Construction to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, and marked as "Unclaimed."

On September 21, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF; Joe Haughwout, Staff Member; and Robert Kirby, Presiding Board Member. Neither Leslie nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

Count 1: Board Regulation (Effective September 1, 2001)

Leslie's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230.A. The evidence presented supports the fact that the regulant failed to operate in the name the license was issued. Therefore, I recommend that a monetary penalty of \$500.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 2: Board Regulation (Effective September 1, 2001)

Leslie's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. The evidence presented supports the fact that the contract used by the regulant failed to contain the minimum provisions required by the regulations. Therefore, I recommend that a monetary penalty of \$100.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 3: Board Regulation (Effective September 1, 2001)

Leslie's abandonment of work under the contract is a violation of Board Regulation 18 VAC 50-22-260.B.14. The evidence presented clearly indicated that the regulant abandoned the work under this contract. Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Leslie's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. The evidence presented clearly indicates that the regulant failed to respond to an investigator for the Board for Contractors. Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

By: _____
Robert Kirby
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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 THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 5, 2004 (revised July 26, 2004)

FILE NUMBER: 2004-00233
RESPONDENT: William G. Leslie, Jr., t/a B Leslie Construction
LICENSE NUMBER: 2705016367
EXPIRATION: December 31, 2004

SUBMITTED BY: Morgan T. Moore
APPROVED BY: Linda J. Boswell

COMMENTS:

License terminated on November 17, 2003.

William G. Leslie, Jr. ("Leslie"), t/a B Leslie Construction, was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705016367).

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

BACKGROUND:

On July 7, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from John and Raissa Typrin ("the Typrins") regarding B Leslie Construction. (Exh. C-1)

On December 8, 1992, Leslie was issued Class A Contractor's license number 2705016367 as a sole proprietorship. (Exh. I-3)

On August 18, 1993, B. Leslie Construction Inc. became incorporated in Virginia. The president of the corporation was William G. Leslie Jr. (Exh. I-4)

On December 11, 2002, the Typrins entered into a written contract with B. Leslie Construction, Inc., in the amount of \$29,700.00, to expand a one-car garage area into a two-car garage and an extended laundry room at 2511 Gold Cup Lane, Reston, Virginia 220191. The contract was signed by Bill Leslie. (Exh. C-2)

On December 9, 2002, the Typrins paid Leslie \$4,000.00 by check. On February 15, 2003, the Typrins paid Leslie \$15,000.00 by check. (Exh. C-3)

In June 2003, the Typrins discovered Leslie was the Director of Operations for Plan-It Construction. Leslie later told the Typrins that B. Leslie Construction was no longer in operation. (Exh. C-1)

On December 31, 2003, B. Leslie Construction Inc. was terminated as a corporation in Virginia. (Exh. I-4)

1. Board Regulation (Effective September 1, 2001)

18 VAC 50-22-230. Change of name or address.

- A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

Leslie failed to operate in the name in which the license was issued.

2. Board Regulation (Effective September 1, 2001)

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

- B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
- a. When work is to begin and the estimated completion date;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Leslie in the transaction failed to contain subsections: (a) and (h) the contractor's license number, expiration date, classification or specialty services. (Exh. C-2)

3. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

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

FACTS:

As of March 2003, Leslie installed the slab for the addition. In May 2003, Leslie built the framing and installed roof boards and siding for the addition. (Exh. C-1)

The Typrins made several attempts to contact Leslie; however, Leslie failed to respond. On June 3, 2003, the Typrins sent Leslie a letter regarding the progress of work at the subject property. (Exh. C-1 and C-4)

On June 4, 2003, Leslie returned to the subject property and promised the Typrins the work would be finished by July 4, 2003. (Exh. C-1)

On June 6, 2003, the Typrins sent Leslie a letter affirming the agreement to complete the work by July 4, 2003. (Exh. C-4)

The last day Leslie performed work on the project was June 10, 2003. (Exh. C-7)

As of July 6, 2003, Leslie failed to complete the following items:

- Drywall installation and painting throughout garage space and laundry room;
- Install garage door;
- Driveway addition with retaining wall connecting to main access;
- Locks and keys;
- Brick finishing around garage door;
- Remove power room window and replace with brick;
- Repair brick wall in garage space;
- Repair drywall damage;
- Install power outlets and light fixtures. (Exh. C-1)

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

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

FACTS:

On July 24, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Leslie at the address of record of 11211 Cranbrook Lane, Oakton, Virginia, 22124, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by August 18, 2003. (Exh. I-1)

As of May 5, 2004, Leslie refused or failed to respond to the Board's agent.

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

Re: William G. Leslie, t/a B Leslie Construction

File Number: 2004-01945
License Number: 2705016367

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to William G. Leslie ("Leslie"), t/a B Leslie Construction to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, and marked as "Unclaimed."

On September 21, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the *Department of Professional and Occupational Regulation*.

The following individuals participated at the IFF: Joe Haughwout, Staff Member; and Robert Kirby, Presiding Board Member. Neither Leslie nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

Count 1: Board Regulation (Effective September 1, 2001)

Leslie's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230.A. The evidence presented supports the fact that the regulant failed to operate in the name the license was issued. Therefore, I recommend that a monetary penalty of \$500.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 2: Board Regulation (Effective September 1, 2001)

Leslie's failure to fully execute the contract prior to the commencement of work or acceptance of payments is a violation of Board Regulation 18 VAC 50-22-260.B.8. The evidence supports the fact that the *regulant failed to obtain a signed contract before beginning work in clear violation of the regulation.* Therefore, I recommend that a monetary penalty of \$500.00 along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 3: Board Regulation (Effective September 1, 2001)

Leslie's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. The evidence presented supports the fact that the contract used by the *regulant failed to contain the minimum provisions required by the regulations.* Therefore, I recommend that a monetary penalty of \$100.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 4: Board Regulation (Effective January 1, 2003)

Leslie's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. The evidence presented clearly indicates that the *regulant failed to respond to an investigator for the Board for Contractors.* Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

By: _____
Robert Kirby
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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 THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 13, 2004 (revised July 26, 2004)

FILE NUMBER: 2004-01945
RESPONDENT: William G. Leslie, Jr., t/a B Leslie Construction
LICENSE NUMBER: 2705016367
EXPIRATION: December 31, 2004

SUBMITTED BY: Morgan T. Moore
APPROVED BY: Linda J. Boswell

COMMENTS:

License terminated of November 17, 2003.

William G. Leslie, Jr. ("Leslie"), t/a B Leslie Construction, was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705016367).

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

BACKGROUND:

On November 3, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Jeffery Rubalow ("Rubalow") regarding Leslie. (Exh. C-1)

On December 8, 1992, Leslie was issued Class A Contractor's license number 2705016367 as a sole proprietorship. (Exh. I-2)

On August 18, 1993, B. Leslie Construction Inc. became incorporated in Virginia. The president of the corporation was William G. Leslie Jr. (Exh. I-3)

On November 16, 2002, Rubalow entered into a written contract with B. Leslie Construction, Inc., in the amount of \$18,800.00, to construct a screened porch with a deck at 3125 Cobb Hill Lane, Oakton, Virginia 22124. (Exh. C-2)

On December 31, 2003, B. Leslie Construction Inc. was terminated as a corporation in Virginia. (Exh. I-3)

1. Board Regulation (Effective September 1, 2001)

18 VAC 50-22-230. Filing of charges; prohibited acts.

A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

Leslie failed to operate in the name in which the license was issued.

2. Board Regulation (Effective September 1, 2001)

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

B. *The following are prohibited acts:*

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

The contract was signed by Bill Leslie but was not signed by Rubalow. (Exh. C-2)

Leslie failed to obtain Rubalow's signature on the contract prior to the commencement of work or acceptance of payments.

3. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Leslie in the transaction failed to contain subsections: (a) and (h) the contractor's license number, expiration date, and classification or specialty services. (Exh. C-2)

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

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

FACTS:

On December 5, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Leslie at the address of record of 11211 Cranbrook Lane, Oakton, Virginia, 22124, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by December 22, 2003. (Exh. I-1)

As of May 13, 2004, Leslie refused or failed to respond to the Board's agent.

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

Re: William G. Leslie, t/a B Leslie Construction

File Number: 2003-03062
License Number: 2705016367

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to William G. Leslie ("Leslie"), t/a B Leslie Construction to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, and marked as "Unclaimed."

On September 21, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joe Haughwout, Staff Member; and Robert Kirby, Presiding Board Member. Neither Leslie nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

Count 1: Board Regulation (Effective September 1, 2001)

Leslie's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230.A. The evidence presented supports the fact that the regulant failed to operate in the name the license was issued. Therefore, I recommend that a monetary penalty of \$500.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 2: Board Regulation (Effective September 1, 2001)

Leslie's failure to fully execute the contract prior to the commencement of work or acceptance of payments is a violation of Board Regulation 18 VAC 50-22-260.B.8. The evidence supports the fact that the regulant failed to obtain a signed contract before beginning work in clear violation of the regulation. Therefore, I recommend that a monetary penalty of \$500.00 along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 3: Board Regulation (Effective September 1, 2001)

Leslie's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. The evidence presented supports the fact that the contract used by the regulant failed to contain the minimum provisions required by the regulations. Therefore, I recommend that a monetary penalty of \$100.00, along with the Board's basic contractor licensing class (remedial education) be imposed.

The Board's Basic Contractor Licensing Class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

Count 4: Board Regulation (Effective September 1, 2001)

Leslie's abandonment of work under the contract is a violation of Board Regulation 18 VAC 50-22-260.B.14. The evidence presented clearly indicated that the regulant abandoned the work under this contract. Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 5: Board Regulation (Effective January 1, 2003)

Leslie's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. The evidence presented clearly indicates that the regulant failed to respond to an investigator for the Board for Contractors. Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

By: _____

Robert Kirby
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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 THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 5, 2004 (revised July 26, 2004)

FILE NUMBER: 2003-03062
RESPONDENT: William G. Leslie, Jr., t/a B Leslie Construction
LICENSE NUMBER: 2705016367
EXPIRATION: December 31, 2004

SUBMITTED BY: Morgan T. Moore
APPROVED BY: Linda J. Boswell

COMMENTS:

License terminated on November 17, 2003.

William G. Leslie, Jr. ("Leslie"), t/a B Leslie Construction, was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705016367).

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

BACKGROUND:

On May 14, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Helen and Ted Hollingsworth ("the Hollingsworths") regarding B. Leslie Construction Inc. (Exh. C-1)

On December 8, 1992, Leslie was issued Class A Contractor's license number 2705016367 as a sole proprietorship. (Exh. I-2)

On August 18, 1993, B. Leslie Construction Inc. became incorporated in Virginia. The president of the corporation was William G. Leslie Jr. (Exh. I-3)

On November 27, 2002, the Hollingsworths entered into a written contract with B. Leslie Construction Inc., in the amount of \$17,700.00, to construct a finished basement, including a bathroom, at 3003 Miller Heights Road, Oakton, Virginia 22124. (Exh. C-2)

On November 27, 2002, the Hollingsworths paid Leslie \$3,000.00 by check. On December 6, 2002, the Hollingsworths paid Leslie \$8,000.00 by check. On February 12, 2003, the Hollingsworths paid Leslie \$4,000.00 by check. (Exh. C-3)

On May 20, 2003, the Hollingsworths received a letter from Leslie confirming that he was "closing down" his business effective April 1. (Exh. C-5)

On December 31, 2003, B. Leslie Construction Inc. was terminated as a corporation in Virginia. (Exh. I-3)

1. Board Regulation (Effective September 1, 2001)

18 VAC 50-22-230. Change of name or address.

- A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

Leslie failed to operate in the name in which the license was issued.

2. Board Regulation (Effective September 1, 2001)

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

- B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

The contract was signed by Bill Leslie but was not signed by the Hollingsworths. (Exh. C-2)

Leslie failed to obtain the Hollingsworths' signatures on the contract prior to the commencement of work or acceptance of payments.

3. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:

- a. When work is to begin and the estimated completion date;
- h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Leslie in the transaction failed to contain subsections: (a) and (h) the contractor's license number, expiration date, classification or specialty services. (Exh. C-2)

4. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

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

FACTS:

The last day Leslie performed work on the project was April 22, 2003. (Exh. C-1 and C-5)

As of May 21, 2003, Leslie failed to complete the following items:

- Electrical work, including outlets, switches and dimmers, lighting fixtures, cable and telephone hookup; GFCI in powder room, fixture with switch and exhaust fan with switch in powder room, smoke alarm;

- Installation of a toilet, vanity and cultured marble vanity top, vinyl floor in powder room, and all plumbing connections;
- Power room drywall and insulation, painting, baseboard trim;
- Installation of five interior doors and two pairs of double doors;
- Finish HVAC, including setting AC unit on ground and installing all remaining hardware; and
- Removal of trash, complete the inspection process and complete the grading around a window well. (Exh. C-5)

On May 21, 2003, the Hollingsworths notified Leslie, via certified letter, that they would not pay Leslie the balance of the contract and were hiring other contractors to complete the unfinished work and repair damage. (Exh. C-5) The certified letter was unclaimed and returned to the Hollingsworths on June 14, 2003. (Exh. C-4 and C-5)

5. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

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

FACTS:

On May 28, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Leslie at the address of record of 11211 Cranbrook Lane, Oakton, Virginia, 22124, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by June 13, 2003. (Exh. I-1)

As of May 5, 2004, Leslie refused or failed to respond to the Board's agent.

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

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

1. Name: Robert Kirby
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on September 21, 2004
5. Nature of Personal Interest Affected by Transaction: PRESIDENT -
DEKORBY, INC.

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: AGC OF VA, BUILDERS & CONTRACTORS EXCH., PMPVA MBB.

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

Robert M. Kirby
Signature

9-21-04
Date