

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
March 31, 2005**

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

Ruth Ann Wall, presiding officer, presided. No Board members were present.

Jeffrey Buckley 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

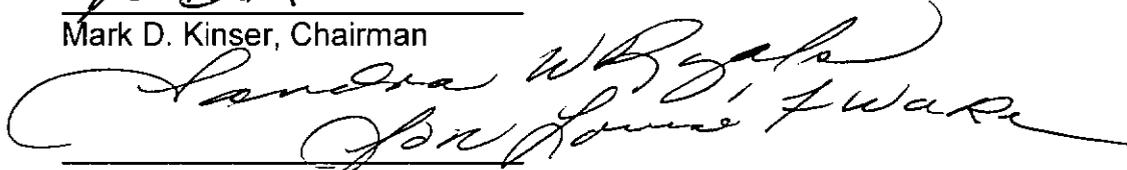
- | | |
|---|---|
| 1. Joseph Santarsieri and
Virginia Remodeling Inc.
File Number 2005-02606 (RF) | Joseph Santarsieri – C
Kathleen Santarsieri – C
William Shewmake – C Atty
D. Wayne May – R
Charlie Nordon – W
Dennis Green – W |
| 2. Sean Doody and
Michael E Schwendeman
t/a Schwendeman Siding
File Number 2004-03197 (RF) | Sean Doody – C |
| 3. Zelma and James Hood and
Frederick C. Taylor
t/a Heavy's
File Number 2004-03537 (RF) | Zelma Hood – C
James Hood – C |
| 4. Adriana Ercolano and
Joseph C. Smith
t/a H E Smith Plumbing & Heating
File Number 2004-03189 (RF) | Adriano Ercolano – C
James Sease – C Atty |

The meeting adjourned at 3:20 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: Joseph and Kathleen Santarsieri (Claimants) and Virginia Remodeling, Inc., t/a Virginia Remodeling, Inc. (Regulant)

File Number: 2005-02606
License Number: 2705081490

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Joseph and Kathleen Santarsieri ("Claimants") and Virginia Remodeling, Inc., t/a Virginia Remodeling, Inc. ("Regulant"), David W. May Sr., t/a Virginia Remodeling, and Virginia Remodeling Sunrooms Inc. The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. All of the certified mailing was signed for and received.

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Kathleen Santarsieri, Claimants; D. Wayne May, Regulant; Charlie Nordon and Dennis Green, Witnesses; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

During the IFF, the Claimants testified that the work constructed was not constructed in accordance with the agreed plans and numerous items did not pass building inspections. The Claimants further testified that the addition was so poorly built that it had to be completely demolished. A second contractor was subsequently hired to rebuild the addition. Based on this testimony, the Regulant's conduct was improper and dishonest.

Section 54.1-1120(A) requires the transaction occur during a period when such individual or entity was a regulant. Meanwhile, Section 54.1-1120(A) also requires the claimant obtain a final judgment against any individual or entity which involves the improper or dishonest conduct.

Although the claim was filed against Virginia Remodeling Inc., license number 2705081490, Virginia Remodeling Inc. was not a licensed contractor at the time of the transaction.

The contract indicated Virginia Remodeling Sunrooms; however, the contract also indicated license number 2705042265. David W. May Sr., t/a Virginia Remodeling (license number 2705042265) was the licensee at the time of this transaction, not Virginia Remodeling Inc. or Virginia Remodeling Sunrooms, Inc. It appears the licensee merely used the wrong trade name on this contract. Furthermore, the building permit obtained on December 27, 2001, indicated Virginia Remodeling as the contractor, not Virginia Remodeling Inc. or Virginia Remodeling Sunrooms, Inc.

On January 7, 2004, after this transaction, Virginia Remodeling Inc. was issued Class A contractor's license number 2705081490.

On July 21, 2004, during the debtor interrogatory hearing, David W. May Sr., President of Virginia Remodeling Inc., testified that he had formed a new corporation named "Virginia Remodeling Sunrooms, Inc." May also testified he was the president and sole shareholder and that all new business was conducted through this new corporation.

On August 30, 2004, after this transaction, Virginia Remodeling Sunrooms Inc. was issued Class A contractor's license number 2705087427.

On February 9, 2005, David W. May Sr., t/a Virginia Remodeling, terminated his license.

Although Virginia Remodeling Inc. was not a licensee at the time of the transaction, it appears that David W. May Sr., t/a Virginia Remodeling, obtained a new license to continue operating as a corporation instead of a sole proprietorship and that there is a substantial interest between the licensees.

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

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: February 10, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Joseph A. and Kathleen Santarsieri (Claimants) and Virginia Remodeling, Inc., t/a Virginia Remodeling, Inc.
(Regulant)
File Number: 2005-02606

BACKGROUND

On April 16, 2004, in the Circuit Court of the County of Henrico, Joseph A. Santarsieri, D.C., and Kathleen Santarsieri obtained a Judgment against Virginia Remodeling, Inc., in the amount of \$29,200.00, plus interest and costs.

The Final Order and Judgment recites and the Court found as a matter of law that the plaintiffs were entitled to recover their payment of \$6,200.00 relating to the contract addendum”.

The plaintiffs’ remaining claim for breach of contract was awarded in the amount of \$38,000.00, which the Court found to be an excessive amount and reduced the award to \$29,200.00.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on December 21, 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 Final Order and Judgment recites “breach of contract as 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 not contract with the regulant. The claimants entered into a contract with Virginia Remodeling on November 30, 2001. The license number listed on the contract is 2705-042265.

The Board issued a Class A License Number 2705081490 to Virginia Remodeling, Inc., t/a Virginia Remodeling, Inc., on January 7, 2004. The license will expire on January 31, 2006. D. Green is listed on the Board for Contractors licensing record as the Responsible Management, Qualified Individual and Designated Employee. The license was terminated on February 9, 2005.

The Board issued a Class B License Number 2705042265 to David W. May, Sr., t/a Virginia Remodeling on November 3, 1997. The license was suspended on January 13, 2005. The Board for Contractors licensing record indicates that M. May is listed as the Designated Employee and Qualified Individual. The license was terminated on February 9, 2005.

The Board issued a Class A License Number 2705087427 to Virginia Remodeling Sunrooms, Inc., t/a Virginia Remodeling Sunrooms Inc., on August 30, 2004. The license will expire on August 31, 2006. The Board for Contractors licensing record indicates that D. May is the Responsible Management. D. Green is the Designated Employee and Qualified Individual.

The claimants entered into a written contract with Virginia Remodeling on November 30, 2001 for a room addition.

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 Board for Contractors 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 any 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 April 16, 2004. The claim was received on December 21, 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 Virginia Remodeling on November 30, 2001 for a room addition.

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 Director's 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. A minimal amount of assets were revealed.

In the Report of Commissioner-In-Chancery of Debtor Interrogatory Hearing, on page 2, item 4 states "Mr. May testified that he did not

anticipate the defendant having any future additional revenue in that he had formed a new corporation named "Virginia Remodeling Sunrooms, Inc." within one month of the hearing of which he was the president and sole shareholder and through which he would place all new business".

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 Final Order and Judgment recites "breach of contract as the award. " In the Affidavit of Facts dated November 9, 2004, the claimant asserts that the regulant made repeated misrepresentations. The misrepresentations included that the addition would be built to match the quality and look of the claimants' home. Also, the construction would look like a stick built addition instead of a prefabricated addition. The claimant asserts that the quality of the addition was so poor that the addition had to be torn down and removed.

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: Sean Doody (Claimant) and Michael E. Schwendeman, t/a Schwendeman Siding (Regulant)

File Number: 2004-03197
License Number: 2705064721

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Sean Doody ("Claimant") and Michael E. Schwendeman, t/a Schwendeman Siding ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Attempted Not Known".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Sean Doody, Claimant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Michael E. Schwendeman nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

The Claimant obtained a judgment in the amount of \$2,800.00 and incurred additional court costs totaling \$92.00. Accordingly, the claimant's revised recovery fund claim is for \$2,892.00.

During the IFF, Doody testified that he paid a total of \$3,700.00 to the contractor. The only work completed by the contractor was the installation of windows totaling \$900.00. The installed windows, however, were improperly installed and subsequently had to be replaced by a second contractor. The poorly installed windows and the failure to perform the work paid for was clearly improper dishonest.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$2,982.00

By: _____

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: February 1, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Sean Doody (Claimant) and Michael E. Schwendeman t/a Schwendeman Siding (Regulant)
File Number: 2004-03197

BACKGROUND

On January 30, 2003 in the Chesterfield County General District Court, Sean M. Doody obtained a Judgment against Mike Schwendeman, in the amount of \$2,800.00, plus interest and \$36.00 costs.

The claim in the amount of \$2,836.00 was received by the Department of Professional and Occupational Regulation on December 9, 2003.

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 Warrant in Debt does not recite the basis for the suit.

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.

Doody & Schwendeman

The Board issued Class C License Number 2705064721 to Michael E. Schwendeman t/a Schwendeman Siding, on August 13, 2001. The license was permanently revoked on August 28, 2003. The claimant entered into a written contract with Schwendeman on June 5, 2002 for the installation of windows and vinyl siding at claimant's residence.

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 Board for Contractors 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 any pleadings 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 January 30, 2003. The claim was received on December 9, 2003.

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 Schwendeman for the installation of windows and vinyl siding at claimant's residence.

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 Director's 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 not conducted, as the regulant failed to appear.

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 Warrant in Debt does not recite the basis for the suit.

In the Affidavit of Facts dated December 6, 2003, the claimant asserts the regulant received a down payment of \$2,200.00 and a second payment of \$1,500.00 toward the construction of the project prior to starting the project. The regulant never started the project or returned the claimant's money.

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: Zelma And James Hood (Claimant) and Frederick C. Taylor, t/a Heavy's (Regulant)

File Number: 2004-03537
License Number: 2705069055

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Zelma And James Hood ("Claimants") and Frederick C. Taylor, t/a Heavy's ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimants was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Unclaimed".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Zelma and James Hood, Claimants; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Frederick C. Taylor nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

The contract entered into with the claimants on May 7, 2002, indicated a company name of Sunny Sunrooms; however, it was clearly signed by Frederick Taylor. Moreover, subsequent invoices provided by the Regulant clearly indicated a company name of Heavy's.

Licensing records with the Board indicate that license number 2705069055 was issued on May 10, 2002. Although the Claimants entered into a contract with the Regulant on March 3, 2002, work was not scheduled to commence until June 30, 2002.. Due to numerous delays work, did not actually begin until September 2002. During the IFF, the claimants further testified that the first payment, in the amount of \$30,000, was not made to the Regulant until May 14, 2002. Moreover, numerous invoices provided by the claimants indicate that additional money was paid to the Regulant during September 2002.

It is my opinion that prior to receiving money and commencing work, Frederick C. Taylor, t/a Heavy;s, was a licensed contractor with the Board. The judgment cites improper and dishonest conduct as the basis; therefore, I recommend the recovery fund claim be approved for payment in the amount of \$10,000.00

By: _____

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: January 26, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of
Zelma and James Hood (Claimants) and Frederick C. Taylor t/a Heavy's
(Regulant)
File Number: 2004-03537

BACKGROUND

On December 12, 2003 in the Gloucester County General District Court, Zelma and James Hood obtained a Judgment against Frederick Taylor, t/a Heavy's, t/a Sunny Sunrooms, in the amount of \$15,000.00, plus interest and costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on February 25, 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 recites "improper and dishonest conduct" as the basis for 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 not contract with the regulant.

Hood & Heavy's

The Board issued Class C License Number 270569055 to Frederick C. Taylor t/a Heavy's, on May 10, 2002. The license was permanently revoked on March 3, 2004. The Board for Contractors licensing record lists F. Taylor as the Qualified Individual and Responsible Management of Frederick C. Taylor t/a Heavy's. The claimants entered into a written contract with Sunny Sunrooms on March 7, 2002 for the conversion of a garage into additional living space at the claimants' residence. The contract accepted signature for Sunny Sunrooms is Fred Taylor.

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 Board for Contractors 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 December 12, 2003. The claim was received on February 25, 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 claimant entered into a written contract with the Sunny Sunrooms for the conversion of a garage into additional living space at claimants' residence.

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 Director's 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 not conducted. The regulant failed to appear.

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."

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.

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

Re: Adriana Ercolano (Claimant) and Joseph C. Smith, t/a H E Smith Plumbing & Heating (Regulant)

File Number: 2004-03189
License Number: 2705039961

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Adriana Ercolano ("Claimant") and Joseph C. Smith, t/a H E Smith Plumbing & Heating ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Unclaimed".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Adriana Ercolano, Claimant; James Sease, Claimant's Attorney; Regulant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Joseph C. Smith, t/a H E Smith Plumbing & Heating, nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

During the IFF, the Claimant stated the original contract was with Joseph Smith ("Smith") and that the County records indicated either the company name H E Smith Plumbing & Heating or Goodman Mechanical.

Based on the record, the contract indicated "Goodman Mechanical" and the contract was signed by Joseph Smith on behalf of Goodman Mechanical. The contract was entered into on March 7, 2001.

According to the Claimant's attorney, the judgment was not entered against Joseph Smith because he was deceased and the judgment could only be entered against Joseph Smith if a qualifier was named for his estate.

On August 14, 1997, Joseph C. Smith, t/a H E Smith Plumbing & Heating was issued license number 2705039961. On September 28, 2001, the license was terminated.

Although the license was active at the time of the contract, the judgment was not entered against Joseph Smith. Therefore, I recommend the recovery fund claim be denied.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: November 12, 2004
February 11, 2005 (revised)

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim
Adriana Ercolano (Claimant) and Joseph C. Smith t/a H. E. Smith Plumbing &
Heating (Regulant)
File Number: 2004-03189
Companion Files: 2005-03248
2005-03238

BACKGROUND

On September 15, 2003, in the Circuit Court for the County of Mathews, Virginia, Adriana Ercolano obtained a Judgment against Joseph C. Smith and Erika L. Smith and Goodman Plumbing and Heating, Inc., and Heidi Skeens, and Godman Mechanical Corporation, for damages in the amount of \$22,347.05. The judgment also recites "however the said judgment shall not be against Joseph Smith nor the Estate of Joseph Smith."

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on December 15, 2003.

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 or dishonest conduct" as the basis for the award.

Ercolano & Smith

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 not contract with the regulant, Joseph C. Smith t/a H. E. Smith Plumbing & Heating. The claimant contracted with Goodman Mechanical on May 15, 2001. Goodman Mechanical Corporation was not licensed by the Board for Contractors until November 8, 2001. The contract was signed by Joseph Smith, owner of Goodman Mechanical.

The Board issued a Class C License Number 2705039961 to Joseph C. Smith t/a H. E. Smith Plumbing & Heating on August 14, 1997. The license was terminated September 28, 2001.

The Board issued a Class B License Number 2705065527 to Goodman Mechanical Corporation on November 8, 2001. The license was permanently revoked on April 16, 2004. The licensing record with the Board for Contractors has H. Skeens listed as the Responsible Management. J. Smith is listed as the Qualified Individual of Goodman Mechanical Corporation.

The claimant entered into a written contract on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Board for Contractors 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 any pleadings 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 September 15, 2003. The claim was received on December 15, 2003.

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 on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Director's 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 not conducted. The regulant failed to appear.

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 or 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."

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: Adriana Ercolano (Claimant) and Goodman Plumbing & Heating, Inc., t/a Goodman Plumbing & Heating, Inc. (Regulant)

File Number: 2005-03238
License Number: 2705015004

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Adriana Ercolano ("Claimant") and Goodman Plumbing & Heating, Inc., t/a Goodman Plumbing & Heating, Inc ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant and the Regulant was signed for and received.

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Adriana Ercolano, Claimant; James Sease, Claimant's Attorney; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Goodman Plumbing & Heating, Inc. nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

During the IFF, the Claimant stated the original contract was with Joseph Smith ("Smith") and that the County records indicated either the company name H E Smith Plumbing & Heating or Goodman Mechanical. The Claimant also stated Smith performed work at the subject property, but the work resulted in damage to her property. After the Claimant mentioned the potential for a civil suit, Heidi Skeens, Smith's daughter, assumed the contract from Smith.

Based on the record, the contract indicated "Goodman Mechanical" and the contract was signed by Joseph Smith on behalf of Goodman Mechanical. The contract was entered into on March 7, 2001.

In addition, the Motion for Judgment stated Goodman Plumbing & Heating Inc. assumed the contract for Joseph C. Smith and Goodman Mechanical after the Claimant discovered that neither Joseph C. Smith nor Goodman Mechanical held a Class A or Class B license. The Motion for Judgment also stated Heidi Skeens is the owner of Goodman Plumbing & Heating Inc. and contracted to complete the renovations at the subject property.

On October 15, 1992, Goodman Plumbing & Heating Inc. was issued license number 2705015004. On October 31, 2004, the license expired.

During the IFF, the Claimant's attorney stated the judgment was entered against Goodman Plumbing & Heating Inc., Heidi Skeens, and Goodman Mechanical Corporation, but not Joseph Smith. The Claimant's attorney also stated he filed the judgment against all the entities because between the time the contract was entered into and the time the Motion for Judgment was filed, Joseph Smith operated under multiple names and the entities had the same address.

The Claimant's attorney also provided documentation indicating Goodman Plumbing & Heating Inc. became a corporation in July 1991 and Heidi Skeens was the President of the corporation.

Goodman Plumbing & Heating Inc. was a regulant at the time the contract was entered into with the Claimant. Although the contract indicates the name "Goodman Mechanical," the contract was signed by Joseph Smith and the work was subsequently assumed by Heidi Skeens, Smith's daughter, under the license held by Goodman Plumbing & Heating Inc.

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

By: _____

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: November 12, 2004
February 11, 2005 (revised)

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim
Adriana Ercolano (Claimant) and Goodman Plumbing & Heating, Inc., t/a
Goodman Plumbing & Heating, Inc. (Regulant)
File Number: 2004-03189
Companion Files: 2005-03248
2005-03238

BACKGROUND

On September 15, 2003, in the Circuit Court for the County of Mathews, Virginia, Adriana Ercolano obtained a Judgment against Joseph C. Smith and Erika L. Smith and Goodman Plumbing and Heating, Inc., and Heidi Skeens, and Godman Mechanical Corporation, for damages in the amount of \$22,347.05. The judgment also recites "however the said judgment shall not be against Joseph Smith nor the Estate of Joseph Smith."

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on December 15, 2003.

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 or dishonest conduct" as the basis for 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 not contract with the regulant, Joseph C. Smith t/a H. E. Smith Plumbing & Heating. The claimant contracted with Goodman Mechanical on May 15, 2001. Goodman Mechanical Corporation was not licensed by the Board for Contractors until November 8, 2001. The contract was signed by Joseph Smith, owner of Goodman Mechanical.

The Board issued a Class C License Number 2705039961 to Joseph C. Smith t/a H. E. Smith Plumbing & Heating on August 14, 1997. The license was terminated September 28, 2001.

The Board issued a Class B License Number 2705065527 to Goodman Mechanical Corporation on November 8, 2001. The license was permanently revoked on April 16, 2004. The licensing record with the Board for Contractors has H. Skeens listed as the Responsible Management. J. Smith is listed as the Qualified Individual of Goodman Mechanical Corporation.

The claimant entered into a written contract on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Board for Contractors 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 any pleadings 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 September 15, 2003. The claim was received on December 15, 2003.

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 on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Director's 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 not conducted. The regulant failed to appear.

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 or 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."

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: Adriana Ercolano (Claimant) and Goodman Mechanical Corporation (Regulant)

File Number: 2005-03248
License Number: 2705065527

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Adriana Ercolano ("Claimant") and Goodman Mechanical Corporation ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Attempted Not Known".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Adriana Ercolano, Claimant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Goodman Mechanical Corporation nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

During the IFF, the Claimant stated the original contract was with Joseph Smith ("Smith") and that the County records indicated either the company name H E Smith Plumbing & Heating or Goodman Mechanical.

Based on the record, the contract indicated "Goodman Mechanical" and the contract was signed by Joseph Smith on behalf of Goodman Mechanical. The contract was entered into on March 7, 2001.

On November 8, 2001, Goodman Mechanical Corporation was issued license number 2705065527.

Section 54.1-1120(A) requires the transaction occur during a period when such entity was a regulant.

Since the license was not issued until after the contract was entered with the Claimant, the entity was not a regulant at the time of the transaction. Therefore, I recommend the recovery fund claim be denied.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: November 12, 2004
February 11, 2005 (revised)

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim
Adriana Ercolano (Claimant) and Goodman Mechanical Corporation t/a
Goodman Mechanical Corporation (Regulant)
File Number: 2004-03189
Companion Files: 2005-03248
2005-03238

BACKGROUND

On September 15, 2003, in the Circuit Court for the County of Mathews, Virginia, Adriana Ercolano obtained a Judgment against Joseph C. Smith and Erika L. Smith and Goodman Plumbing and Heating, Inc., and Heidi Skeens, and Godman Mechanical Corporation, for damages in the amount of \$22,347.05. The judgment also recites "however the said judgment shall not be against Joseph Smith nor the Estate of Joseph Smith."

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on December 15, 2003.

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 or dishonest conduct" as the basis for the award.

Ercolano & Smith

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 not contract with the regulant, Joseph C. Smith t/a H. E. Smith Plumbing & Heating. The claimant contracted with Goodman Mechanical on May 15, 2001. Goodman Mechanical Corporation was not licensed by the Board for Contractors until November 8, 2001. The contract was signed by Joseph Smith, owner of Goodman Mechanical.

The Board issued a Class C License Number 2705039961 to Joseph C. Smith t/a H. E. Smith Plumbing & Heating on August 14, 1997. The license was terminated September 28, 2001.

The Board issued a Class B License Number 2705065527 to Goodman Mechanical Corporation on November 8, 2001. The license was permanently revoked on April 16, 2004. The licensing record with the Board for Contractors has H. Skeens listed as the Responsible Management. J. Smith is listed as the Qualified Individual of Goodman Mechanical Corporation.

The claimant entered into a written contract on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Board for Contractors 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 any pleadings 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 September 15, 2003. The claim was received on December 15, 2003.

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 on May 15, 2001 with Goodman Mechanical to restore the property located at Routes 609/611 Onemo, Virginia, for general interior and exterior home improvements. (Note: The address listed on the contract is a different address than the address listed on the claimant's claim form.)

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 Director's 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 not conducted. The regulant failed to appear.

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 or 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."

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 H. Walker Jr. (Claimant) and Goodman Mechanical Corporation (Regulant)

File Number: 2004-03289
License Number: 2705065527

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to William H. Walker Jr. ("Claimant") and Goodman Mechanical Corporation ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Attempted Not Known".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: William H. Walker Jr., Claimant; Tom Bowen, Claimant's Attorney; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Goodman Mechanical Corporation nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

On January 3, 2003, in Mathews County General District Court, William H., Jr. and Catherine D. Walker obtained a Judgment against Heidi D. Skeens t/a Goodman Mechanical Corp., in the amount of \$1,625.00, plus interest and \$34.00 costs. The claim in the amount of \$1,659.00 was received by the Department of Professional and Occupational Regulation ("the Department") on January 23, 2004.

Pursuant to Section 54.1-1120.A.3 of the Code of Virginia, a verified claim shall be filed no later than twelve months after the judgment became final. It is possible that there is a statute of limitations problem with this claim.

During the IFF, the Claimant's attorney testified the time for appeal of the judgment is twenty-one (21) days; therefore, the judgment did not become final until January 24, 2003.

Based on this date, the Claimant's attorney did not believe the claim had to be filed until January 24, 2004. The Claimant's attorney hand-delivered the claim to the Department on January 23, 2004.

The judgment specifically states the regulant's actions were improper/dishonest conduct. Therefore, if the Board finds that the statute of limitations is not an issue, I recommend the recovery fund claim be approved for payment in the amount of \$1,659.00, which includes \$34.00 in court costs.

However, if the Board finds the claim was not filed within the 12-month period, I recommend the recovery fund claim be denied for payment.

By: _____

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: February 1, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of William H. Walker, Jr. (Claimant) and Goodman Mechanical Corporation t/a Goodman Mechanical Corporation (Regulant)
File Number: 2004-03289

BACKGROUND

On January 3, 2003, in Mathews County General District Court, William H., Jr. and Catherine D. Walker obtained a Judgment against Heidi D. Skeens t/a Goodman Mechanical Corp., in the amount of \$1,625.00, plus interest and \$34.00 costs.

The claim in the amount of \$1,659.00 was received by the Department of Professional and Occupational Regulation on January 23, 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 Warrant in Debt recites "guilty of improper and dishonest conduct" as the basis for 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.

Walker & Goodman

The Board issued Class B License Number 2705065527 to Goodman Mechanical Corporation t/a Good Mechanical Corporation, on November 8, 2001. The license was permanently revoked on April 16, 2004. The claimant entered into a written contract with Goodman Mechanical Corporation on June 12, 2002 to install a well water pump system at the claimant's residence.

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 Board for Contractors 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 any pleadings 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 January 3, 2003. The claim was received on January 23, 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 claimant entered into a written contract with Goodman Mechanical on June 12, 2002 to install a well water pump system at the claimant's residence.

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 Director's 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 not conducted, as the regulant could not be found.

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 Warrant in Debt recites "guilty of 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."

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: Leticia J. Alvarez (Claimant) and Barinder Barry Chadda, t/a All American Building & Store Fixtures (Regulant)

File Number: 2004-03186

License Number: 2705045497

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Leticia J. Alvarez ("Claimant") and Barinder Barry Chadda, t/a All American Building & Store Fixtures ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Regulant, at the address of record, was signed for and received. The Notice was also mailed, via certified mail, to the Regulant at 6513 Pinecrest Court, Annandale, VA 22003 and was returned by the United States Postal Service marked "Unclaimed".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Leticia J. Alvarez, Claimant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Barinder Barry Chadda nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

The total contract price was for \$39,000.00. During the IFF Conference, the claimant testified that the contractor was paid a total of \$19,000.00 toward the total contract price. The Regulant completed the foundation of the building and some framing. The claimant further testified that the minimal work completed by the Regulant was of extremely poor quality; a final inspection could not be obtained from the County. The claimant subsequently paid a second contractor \$26,000.00 to repair the work undertaken by the contractor and finish the job contracted for.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$7,073.00

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: February 1, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Leticia J. Alvarez (Claimant) and Barinder Barry Chadda, t/a All American Building & Store Fixtures (Regulant)
File Number: 2004-03186

BACKGROUND

On July 14, 2003, in the Fairfax County General District Court, Leticia J. Alvarez obtained a Judgment against Barry B. Chadda, in the amount of \$7,000.00, plus interest and \$36.00 costs.

The claim in the amount of \$7,073.00 was received by the Department of Professional and Occupational Regulation on January 15, 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 Warrant in Debt does not recite the basis for the suit.
The block designated "Contract" has been marked.

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.

Alvarez & Chadda

The claimant did contract with the regulant.

The Board issued Class A License Number 2705045497 to Barinder Barry Chadda, t/a All American Building & Store Fixtures, on July 9, 1998. The license was permanently revoked on May 26, 2004. The claimant entered into a written contract with All American Building & Store Fixtures on June 8, 2002 for the construction of an addition on the claimant's residence.

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 Board for Contractors 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 any pleadings 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.

The judgment was received on July 14, 2003. The claim was received on January 15, 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 claimant entered into a written contract with All American Building & Store Fixtures on June 8, 2002 for the construction of an addition to the claimant's residence.

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? The claimant did not answer the question.

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Director's 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 Warrant in Debt does not recite basis for the suit.

In the Affidavit of Facts dated January 13, 2004, the claimant stated"I am suing Mr. Chadda for the inconvenience and aggravation he has caused myself and my family, and for the unfinished equivalent of the deposit. The estimate cost of the job already performed is about \$12,000.00 to \$15,000.00. Mr. Chadda and company have not performed work equivalent to the \$19,000.00 already paid to him.

For all the above, I reasonably claim that Mr. Barinder Barry Chadda owes Mr. Ramonet Alvarez and me the sum of \$7,000.00, plus the court and files fees of \$36.00 and attorney's fees".

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 did not respond.

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: Dawn Miles (Claimant) and David Duncan, t/a D & D Home Improvement & Painting Co. (Regulant)

File Number: 2004-03526
License Number: 2705072363

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Dawn Miles ("Claimant") and David Duncan, t/a D & D Home Improvement & Painting Co. ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Return to Sender, Attempted Not Known, Unable to Forward, Return to Sender".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Dawn Miles, Claimant; John Miles, Witness; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither David Duncan, t/a D & D Home Improvement & Painting Co. nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

During the IFF, the claimant testified that the contractor was paid \$14,000.00 toward the contract price. The Regulant failed to obtain the requisite building permits and eventually abandoned the job. A second contractor was hired and paid \$9,000.00 to complete the job. Because building permits were originally not obtained, the previous work undertaken by the Regulant had to be removed. The second contractor subsequently obtained the requisite permits and finished the job according to local building requirements and to the claimant's satisfaction.

The Regulant's failure to obtain requisite building permits and his failure to complete work contracted for is clearly improper and dishonest. Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$9,072.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: January 26, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Dawn A. Miles (Claimant) and David Duncan t/a D & D Home Improvement & Painting Co., (Regulant)
File Number: 2004-03526

BACKGROUND

On July 15, 2003, in the Prince William General District Court, Dawn A. Miles obtained a Judgment against David B. Duncan, in the amount of \$9,000.00, plus interest and \$36.00 costs.

The claim in the amount of \$9,036.00 was received by the Department of Professional and Occupational Regulation on March 1, 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 Warrant in Debt does not recite the basis for the suit.

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 C License Number 2705072363 to David Duncan t/a D&D Home Improvement & Painting Co., on November 19, 2002. The license was permanently revoked on April 16, 2004. The claimant entered into a written contract with D&D Home Improvement and Painting on February 24, 2003 for the completion of the unfinished basement at the claimant's residence.

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 Board for Contractors 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 any pleadings 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 July 15, 2003. The claim was received on March 1, 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 claimant entered into a written contract with D&D Home Improvement and Painting for the completion of the unfinished basement at the claimant's residence.

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 Director's 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 not conducted, as the regulant failed to appear.

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 Warrant in Debt does not recite the basis for the suit.

In the Affidavit of Facts dated February 27, 2004, the claimant asserts that the regulant received a total of \$14,000.00 from the claimant toward the basement improvements. The regulant did not complete the project and did not pay the subcontractor(s) working on the claimant's residence. The claimant had to hire another contractor to correct the work performed by the regulant and to complete the remainder of the project.

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 amount does not include interest or damages.

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

Re: Joseph and Josephine Amaral (Claimants) and Always Contracting Co., Inc., t/a ACC Inc. Design & Build (Regulant)

File Number: 2004-03545

License Number: 2705020307

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Joseph and Josephine Amaral ("Claimants"), to the Claimant's Attorney, and Always Contracting Co., Inc., t/a ACC Inc. Design & Build ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimants was returned by the United States postal Service marked "Return to Sender, Not Deliverable As Addressed, Unable to Forward, Return to Sender". The certified mail sent to the Claimant's Attorney was signed for and received. The certified mail sent to the Regulant was neither signed for nor received.

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph and Josephine Amaral, Claimants; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Always Contracting Co., Inc., t/a ACC Inc. Design & Build nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

The record indicates that the claimants entered in a contract with the Regulant for \$57,350.00. A written change order was also agreed to for \$7,468.62. During the IFF, the claimants testified that the contractor failed to properly construct numerous items and eventually abandoned the job due to lack of adequate funds. The complainants further testified that a second contractor was hired and paid \$12,343.00 to repair and complete the work originally contracted for with the Regulant. The poorly constructed work undertaken by the Regulant (i.e. using rotten wood in the portico, improperly grading the yard, and failing to let the concrete front steps

completely dry before removing the forms) and the failure to complete the work contracted for definitively constitutes improper and dishonest conduct.

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

By: _____

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: January 27, 2005

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Joseph and Josephine Amaral (Claimants) and Always Contracting Co., Inc., t/a ACC Inc., Design & Build (Regulant)
File Number: 2004-03545

BACKGROUND

On December 12, 2003, in the Fairfax County General District Court, Joseph Amaral and Josephine Amaral obtained a Judgment against Always Contracting Company, Inc., t/a ACC, Inc. and Paul Immer, Trustee in Dissolution, in the amount of \$10,000.00, plus interest and \$24.00 costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on February 23, 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 recites "regulant did not complete the agreement contracted for" as the basis for 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 A License Number 2705020307 to Always Contracting Co., Inc., t/a ACC Inc. Design & Build, on April 21, 1993. The license was permanently revoked on November 10, 2004. The claimants entered into a written contract with Always Contracting Company, Inc., t/a ACC. Inc., August 5, 1999 for construction of a room addition on the claimants' residence.

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 Board for Contractors 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 any pleadings 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 December 12, 2003. The claim was received February 23, 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 Always Contracting Company, Inc., t/a ACC. Inc., for construction of a room addition at the claimants' residence.

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 Director's 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 not conducted. State Corporation Commission terminated Always Contracting Company, Inc., on September 2, 2003 for failure to file an annual report and pay an annual registration fee.

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 "regulant did not complete the agreement contracted for" as the basis for the award.

In the Affidavit of Facts dated February 13, 2004, the claimants assert the "defendant admitted to Plaintiffs that he is liable to the Plaintiffs for damages because of his fraudulent and wrongful conduct".

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, "Yes." The regulant filed for a Chapter 7-personal bankruptcy on July 17, 2001.

The claimant has included for the United States Bankruptcy Court, an Order dated November 6, 2001, Vacating Discharge Of Debtor(s) which vacates the discharge.

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: George Tasoulis (Claimant) and Tananlor LLC, t/a Newport Construction Services (Regulant)

File Number: 2004-03586
License Number: 2705057421

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On February 17, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to George Tasoulis ("Claimant") and Tananlor LLC, t/a Newport Construction Services ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail sent to the Claimant was signed for and received. The certified mail sent to the Regulant was returned by the United States Postal Service marked "Return to Sender, Not Deliverable As Addressed, Unable to Forward, Return to Sender".

On March 31, 2005, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: George Tasoulis, Claimant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Tananlor LLC, t/a Newport Construction Services nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

The Warrant in Debt recites "Failure to complete roof work as promised, misrepresentation of work – Violation of Virginia Consumer Protection Act Section 59.1-196, et seq." as the basis for the suit.

During the IFF, the claimant testified that he paid the Regulant \$31,000. The work was of such a poor quality that the claimant subsequently paid a second contractor \$13,000 to repair the roof. The claimant further acknowledged that additional work must be undertaken on the roof, which will cost him \$5,000.00.

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

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: January 26, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of George Tasoulis (Claimant) and Tananlor LLC t/a Newport Construction Services (Regulant)
File Number: 2004-03586

BACKGROUND

On March 19, 2003, in the Fauquier County General District Court, George Tasoulis obtained a judgment against Tananlor, L.L.C., d/b/a Newport Construction Services in the amount of \$15,000.00, plus interest and \$66.00 costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on March 5, 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 Warrant in Debt recites "Failure to complete roof work as promised, misrepresentation of work – Violation of Virginia Consumer Protection Act Section 59.1-196, et seq." as the basis for the suit. The designated block "Other" has been marked.

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 2705057421 to Tananlor LLC t/a Newport Construction Services, on August 3, 2000. The license expired on August 31, 2004. The claimant entered into a written contract with Newport Construction Services on March 2, 2001 for installation of a copper roof and the slate at claimant's residence.

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 Board for Contractors 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 any pleadings 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 March 19, 2003. The claim was received on March 5, 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 claimant entered into a written contract with Newport Construction Services on March 2, 2001 for installation of a copper roof and the slate at claimant's residence.

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 Director's 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 not conducted. The regulant was not found.

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 Warrant in Debt recites "Failure to complete roof work as promised, misrepresentation of work – Violation of Virginia Consumer Protection Act Section 59.1-196, et seq." as the basis for the suit. The designated block "Other" has been marked.

In the Affidavit of Facts dated March 1, 2004, the claimant asserts that the regulant received the total amount of the contract and did not complete the project. The claimant asserts that the work completed by the regulant was not done properly.

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.

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

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Ruth Ann Wall
2. Title: Presiding Officer
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on March 31, 2005
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

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

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

Ruth Ann Wall
Signature

3-31-05
Date