

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
May 11, 2004 (9:00 a.m.)**

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

William Paulette, Board member, presided. No other Board members were present.

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

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

Disc = Disciplinary Case  
RF = Recovery Fund Claim

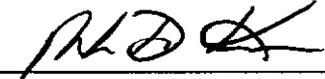
C = Complainant/Claimant  
R = Respondent/Regulant

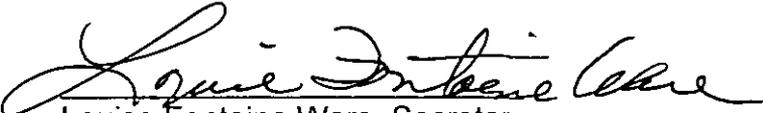
Participants

- |   |                   |
|---|-------------------|
| 1. Gayles Enterprises LLC<br>t/a A - One Home Improvements & Repairs<br>File Number 2004-01261 (Disc) | Leah Gonzales – C |
| 2. Medallion Security Door & Window Co of Maryland<br>File Number 2003-01842 (Disc)                   | None              |
| 3. David G. Moore Jr.<br>t/a Moore's Home Improvement Contractors<br>File Number 2003-03157 (Disc)    | None              |
| 4. Kathy L. Cotter<br>t/a Brijadan Construction Co<br>File Number 2004-02468 (Disc)                   | Kathy Cotter – R  |
| 5. Archie Necessary<br>File Number 2004-00983 (Disc)  | None              |
| 6. Global Coatings and Remodeling Inc.<br>File Number 2003-03446 (Disc)                               | None              |
| 7. Timothy J. Simon<br>t/a T J's Connection<br>File Number 2003-00285 (Disc)                          | None              |

The meeting adjourned at 1:25 p.m.

BOARD FOR CONTRACTORS

  
\_\_\_\_\_  
Mark D. Kinser, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

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Custodian of Records

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: GAYLES ENTERPRISES LLC  
T/A A-ONE HOME IMPROVEMENTS & REPAIRS  
LICENSE NUMBER: 2705 074946

FILE NUMBER: 2004-01261

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Derrick Gayles of Gayles Enterprises LLC, t/a A-One Home Improvements, on March 12, 2004. The following individuals participated at the conference: Leah G. Gonzales, Complainant; Jennifer Kazzie, Staff Member; and William Paulette, presiding Board Member. Neither Derrick Gayles, nor anyone on his behalf, attended the IFF.

## Background

On September 17, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Leah G. Gonzales (Gonzales) regarding a contract entered into with Gayles Enterprises LLC (Gayles), t/a A-1 Home Improvements and Repair (A-One).

On May 31, 2003, Gonzales entered into a written contract with Gayles, in the amount of \$6,750.00, to remodel a master bathroom and hall bathroom at 1336 White Marlin Lane, Virginia Beach, Virginia 23464.

On June 6, 2003, Gonzales paid Gayles \$3,300.00 by check, as a deposit.

On June 9, 2003, Gayles commenced work on the master bathroom.

On June 13, 2003, Gonzales paid D. Gayles \$355.00 by check, for an invoice dated June 12, 2003. On June 19, 2003, Gonzales paid D.L. Gayles \$1,826.42 by check, for an invoice dated June 16, 2003. On June 24, 2003, Gonzales paid Gayles \$1,950.00 by check, for an invoice entitled "Invoice Leah Gonzolas."

On July 13, 2003, Gayles completed work in the master bathroom. On July 14, 2003, Gayles commenced work on the hall bathroom.

On July 14, 2003, Gonzales paid Gayles \$2,618.00 by check, for an invoice dated July 7, 2003. On July 30, 2003, Gonzales paid Gayles \$1,850.00 by check, for an invoice entitled "Invoice Leah Gonzolas mother's bath."

On or about August 9, 2003, Gonzales and Gayles met at the subject property to discuss repairs needed in the master bathroom; however, the discussion was unproductive and Gayles left the subject property.

On October 27, 2003, a review of the licensing records of the Board for Contractors revealed Gayles was issued Class C Contractor's license number 2705074946 on April 30, 2003, with the home improvement contracting (HIC) specialty.

On November 25, 2003, Gayles admitted to moving a toilet in the master bathroom and running piping to connect it to the existing pipes.

The amount paid by Gonzales to Gayles under the terms of the original contract totaled \$5,600.00, and the amount paid for additional work and materials in addition to the contract totaled \$6,299.42. The total amount paid by Gonzales to Gayles was \$11,899.42.

## **Summation of Facts**

1. The contract used by Gayles in the transaction failed to contain subsections: (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) contractor's address, license number, expiration date, class of license, and classifications or specialty services.
2. On November 25, 2003, Gayles told Investigator Valerie J. Matney, the Board's agent, that Gayles performed all the work on the project, which included electrical and plumbing. Gayles further told the Board's agent that Gayles did not have licensed electricians or plumbers.
3. Gayles failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.
4. On June 12, 2003, Gayles sent Gonzales an invoice, in the amount of \$355.00, for installing a new waste and drain overflow, installing additional recessed light, repairing rotten wood on sub-floor, and moving a 3" vent stack and framing for a flush mount wall cabinet.
5. On June 16, 2003, Gayles ordered tiles from Mosaic Tile Company. On June 16, 2003, Gayles presented the receipt to Gonzales and requested payment, in the amount of \$1,826.42 for the tile purchased that were in addition to the terms of the original contract.
6. On July 7, 2003, Gayles sent Gonzales an invoice, in the amount of \$3,318.00, for a second installment of the bath remodel, wainscot applied to sink base, and shower valve and sink valve repair. The wainscot and valve repair were in addition to the original contract.
7. According to "Invoice Leah Gonzolas," Gayles performed the following additional work:
  - Additional recessed bath shelf, in the amount of \$100.00;
  - Tiled floor heater, in the amount of \$650.00;
  - Custom built medicine cabinet with outlet, in the amount of \$300.00;
  - Custom built recessed wall cabinet, in the amount of \$475.00;
  - Mirror for wall cabinet, in the amount of \$100.00;
  - Pocket door kit, in the amount of \$250.00; and
  - Additional plumbing, in the amount of \$150.00.
8. According to "Invoice Leah Gonzolas mother's bath," Gayles performed the following additional work:
  - Tiled floor heater, in the amount of \$650.00;
  - Wainscot vanity, in the amount of \$125.00;
  - Custom built recessed wall cabinet, in the amount of \$400.00;
  - Floor and wall repair, in the amount of \$400.00;
  - Change shower unit, in the amount of \$200.00; and
  - Additional recessed light, in the amount of \$75.00.

9. On November 25, 2003, Gayles admitted to receiving \$11,899.42 from Gonzales, which included additional work and materials not included in the original contract. Gayles told the Board's agent that he thought the invoices and payment of the invoices by Gonzales constituted acceptance of the modifications to the original contract.

10. Gayles failed to use written change orders, signed by all parties, for these changes to the scope of the work to be performed, materials, and costs.

11. On August 11, 2003, Gonzales went to the Virginia Beach Permits and Inspections Office and discovered that Gayles never obtained permits for the work being performed at the subject property.

12. On November 25, 2003, Gayles admitted that it was his fault for not obtaining building, electrical, or plumbing permits for the work at the subject property and that "it was an oversight."

13. On December 5, 2003, John Coro (Coro) of the Virginia Beach Permits & Inspections Office told the Board's agent that the work performed by Gayles at the subject property required building, electrical, and plumbing permits. Coro further stated that Gayles' failure to obtain such permits prior to the commencement of work was in violation of Section 109.1 of the Virginia Uniform Statewide Building Code (USBC).

14. On August 1, 2003, Gonzales received an email from Mark Fries (Fries), Sales and Engineering Manager of Watts Radiant and SunTouch, regarding the installation of a radiant heat mat by Gayles. According to a discussion with Gayles, Fries recommended Gonzales either abandon the mat or install a new mat because the existing mat installed by Gayles was unsafe in its present condition.

15. At the request of Gonzales, Al Chesley (Chesley) of A Closer Look Inc. conducted an inspection of the work performed by Gayles at the subject property. In a report dated August 11, 2003, Chesley noted the following:

- Master Bath: Tub is not properly installed nor is it level. Most manufacturers recommend this type tub be set in a mortar bed and be level. If this is not done damage will most probably occur to the tub, and most often any warranty offered by the manufacturer will be void. It was also noted that a fairly large section of the subfloor was cut out this prevents properly setting the tub in a mortar bed.
- Master Bath: The floor joists were also cut to accommodate plumbing; the structural integrity of the joist may be compromised.
- Master Bath: The shower control valve is not properly installed/aligned for proper operation of each function individually.
- It was noted that the plumbing drain line was leaking (visible from open ceiling in kitchen.)
- It also appears that the tub drain improperly ties into the commode drain (all plumbing should be checked by city.)

- The central heat & air register has been capped off, this is not recommended. I would suggest you have the duct routed so that it will come out of the toe kick on your vanity cabinet.
- Several electrical violations were noted:
  1. The jetted tub should be on a 20 AMP GFCI (current outlet is not GFCI protected and is only rated @ 15 Amp).
  2. There is no GFCI @ the sink
  3. The combination switches are not properly wired to operate independently of each other
- Pocket door to master bath is missing bottom guides and rubs at bottom, upper track for pocket door is either improperly cut or is not properly installed, trim/jamb etc for pocket door is miss cut and poorly finished.
- Mirrored wall cabinet by tub is poorly installed and not properly put together, shelf guide holes on each side do not line up, shelf sits at an angle, hinges are not properly set and door squeaks and rubs.
- Radiant heat mat in floor has been cut against manufacturer's directions, this is a fire/electrocution hazard.

16. On November 25, 2003, Gayles stated that the additional materials listed in "Invoice Gonzolas mother's bath" were never delivered, but that Gonzales had paid for the additional materials. As of November 25, 2003, Gayles failed to deliver the tiled floor heater, wainscoting for the vanity, and the custom built recessed wall cabinet.

17. Gayles failed to return money received for materials that were not delivered.

### **Conclusion and Recommendation**

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

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

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

Gayles' action of performing electrical and plumbing work at the property without the proper electrical and plumbing classification constitutes practicing in a classification, specialty service or class of license for which the contractor is not licensed and is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: 18 VAC 50-22-260(B)(27) (Effective January 1, 2003)

Gayles' failure to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license constitutes practicing in a classification, specialty service or class of license for which the contractor is not is a violation of Board Regulation 18 VAC

50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: 18 VAC 50-22-260(B)(31) (Effective January 1, 2003)

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

Count 5: 18 VAC 50-22-260(B)(6) (Effective January 1, 2003)

Gayles' failure to obtain the required building, electrical and plumbing permits prior to commencement of work constitutes misconduct in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 6: 18 VAC 50-22-260(B)(5) (Effective January 1, 2003)

Gayles' actions of performing work which contains deficiencies, as outlined in the inspection report by Al Chesley, constitutes negligence and/or incompetence in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

Count 7: 18 VAC 50-22-260(B)(16) (Effective January 1, 2003)

Gayles' failure to return money received for materials that were not delivered constitutes retention of funds paid, for which work is either not performed or performed only in part, and is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 074946 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

**BOARD FOR CONTRACTORS**

**RE: MEDALLION SECURITY DOOR & WINDOW COMPANY  
OF MARYLAND INC.  
LICENSE NUMBER: 2705 032175**

**FILE NUMBER: 2003-01842**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Paul Gremillion, President of Medallion Security Door & Window Company of Maryland, Inc., on March 29, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member and William Paulette, presiding Board Member. Neither Medallion Security Door & Window Company of Maryland, Inc., nor anyone on their behalf, attended the IFF.

**Background**

On December 26, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Freddy Guillen (Guillen) regarding a contract entered into with Medallion Security Door & Window Company of Maryland Inc. (Medallion).

On October 15, 2002, Guillen entered into a contract with Medallion, in the amount of \$25,000.00, to construct a patio room addition at 7417 Nigh Road, Falls Church, Virginia 22043.

Two days before the contract expired, Guillen contacted Medallion and was told that Medallion was not going to perform the work.

**Summation of Facts**

1. The contract used by Medallion in the transaction failed to contain subsections: (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (h) contractor's license number, expiration date, class of license, and classifications or specialty services, and (i) a statement providing that any modification to the contract

which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

2. On April 25, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Medallion at the address of record of 2849 Kaverton Road, Forestville, Maryland 20747, requesting Medallion respond to the complaint filed with the Board.
3. Medallion refused or failed to respond to the Board's agent's request.

### **Conclusion and Recommendation**

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

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

Count 2: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Medallion's failure to respond to the Board's agent, seeking information in the investigation of a complaint filed with the Board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$700.00 be imposed.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 032175 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

**BOARD FOR CONTRACTORS**

**RE: DAVID G. MOORE, JR.  
T/A MOORE'S HOME IMPROVEMENT CONTRACTORS  
LICENSE NUMBER: 2705 064583**

**FILE NUMBER: 2003-03157**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to David G. Moore, Jr., t/a Moore's Home Improvement Contractors, on March 12, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member and William Paulette, presiding Board Member. Neither David Moore, nor anyone on his behalf, attended the IFF.

**Background**

On May 15, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Jerry Crenshaw (Crenshaw) regarding a contract entered into with David G. Moore, Jr., (Moore), t/a Moore's Home Improvement Contractors.

On March 31, 2003, Crenshaw entered into a contract with Moore, in the amount of \$3,500.00, to tear off old shingles and install a new roof at 205 Monroe Street, Danville, Virginia. On March 31, 2003, Crenshaw paid Moore \$1,750.00 as a deposit.

On April 29, 2003, the shingles were delivered to the subject property. On April 30, 2003, Moore commenced work. As of May 1, 2003, Moore had removed the old shingles, removed damaged plywood, and started removing water-damaged insulation.

On May 1, 2003, Moore promised to return on May 2, 2003. On May 2, 2003, Moore failed to perform work but promised to return on May 3, 2003.

In a letter dated May 2, 2003, Crenshaw notified Moore that Moore was being fired for poor workmanship, failure of job supervision, failure to comply with the contract, and damage to the subject property. On May 2, 2003, Crenshaw hired another contractor to complete the roof work.

## **Summation of Facts**

1. The contract used by Moore in the transaction failed to contain subsections: (d) a "plain-language" exculpatory clause, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (i) statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
2. The contract specified "Start Date: 4/3/03 or threw (sic) 4/5/03" and "Estimated Completion Date: 4/8/03 or 4/9/03."
3. Moore failed to comply with the terms of the contract.
4. Moore failed to honor the promises made to return to perform work on May 2, 2003.
5. On June 7, 2003, Investigator Dale C. Amos, the Board's agent, made a written request to Moore at the address of the contract of 51 East Church Street, Danville, Virginia 24541, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a response be received by June 23, 2003.
6. On June 12, 2003, the letter was returned to the Board's agent. The envelope was marked "No Such Number/Street."
7. On September 15, 2003, the Board's agent made a second written request to Moore at the address of record of 380 Jules Street, Danville, Virginia 24541, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested a response be received by September 24, 2003.
8. On September 26, 2003, the Danville Postmaster certified mail was delivered to Moore at the address of record of 380 Jules Street, Danville, Virginia 24541.
9. Moore refused or failed to respond to the Board's agent's request.

## **Conclusion and Recommendation**

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

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

Count 2: 18 VAC 50-22-260(B)(15) (Effective January 1, 2003)

Moore's failure to complete the work contracted for and/or to comply with the terms in the contract is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$1,000.00 and license revocation be imposed.

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

Moore's failure to honor the promises to return to the property to perform work constitutes misconduct in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$1,000.00 and license revocation be imposed.

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

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

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 064583 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

**BOARD FOR CONTRACTORS**

**RE: KATHY L. COTTER  
T/A BRIJADAN CONSTRUCTION CO.  
LICENSE NUMBER: 2705 057887**

**FILE NUMBER: 2004-02468**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Kathy L. Cotter, t/a Brijadan Construction Co., on March 10, 2004. The following individuals participated at the conference: Kathy L. Cotter, Respondent; Jennifer Kazzie, Staff Member; and William Paulette, presiding Board Member.

**Summation of Facts**

1. During the investigation of File Number 2004-01259, Investigator Renee H. Popielarz, the Board's agent, obtained information regarding criminal convictions involving Kathy L. Cotter (Cotter), t/a Brijadan Construction Co.
2. On February 9, 2004, a review of the licensing records of the Board for Contractors revealed Cotter was issued Class A Contractor's license number 2705057887 on August 10, 2000. The records further revealed Kathy L. Cotter as the Responsible Management, Qualified Individual and Designated Employee of license number 2705057887.
3. On October 29, 2003, in the Chesterfield County Circuit Court, Kathy L. Cotter pleaded guilty to possession of marijuana with intent to distribute and to possession of a schedule III controlled substance, two Class 1 misdemeanors, in violation of Sections 18.2-248.1 and 18.2-250 of the Code of Virginia, respectively. There is no appeal pending and the time for appeal has lapsed.
4. On January 5, 2004, in the Colonial Heights Circuit Court, Kathy L. Cotter was convicted of driving under intoxication, a Class 1 misdemeanor, in violation of Section 18.2-266 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed.

5. On February 4, 2004, Cotter told the Board's agent that she did not inform the Board of her misdemeanor convictions because she was unaware that she needed to report them.

### **Conclusion and Recommendation**

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

Cotter's actions of having been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed, is a violation of Board Regulation 18 VAC 50-22-260(B)(22). However, in light of the fines imposed upon Cotter by the Chesterfield County Circuit Court and the Colonial Heights Circuit Court as a result of her convictions, I recommend that no monetary penalty be imposed.

Count 2: 18 VAC 50-22-260(B)(23) (Effective January 1, 2003)

Cotter's failure to inform the Board in writing, within 30 days, that the firm, a member of responsible management, its designated employee, or its qualified individual was found guilty of any felony or of a Class 1 misdemeanor or any misdemeanor for activities carried out while engaged in the practice of contracting, is a violation of Board Regulation 18 VAC 50-22-260(B)(23). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 057887 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

**BOARD FOR CONTRACTORS**

**RE: ARCHIE NECESSARY  
LICENSE NUMBER: 2705 016403**

**FILE NUMBER: 2004-00983**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Archie Necessary, on March 10, 2004. *The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and William Paulette, presiding Board Member.* Neither Archie Necessary, nor anyone on his behalf, attended the IFF.

**Summation of Facts**

1. On January 30, 2004, a review of the licensing records of the Board for Contractors revealed Archie Necessary (Necessary) was issued Class B Contractor's license number 2705016403 on July 27, 1993. The records further revealed Necessary as the Designated Employee, Qualified Individual, and Responsible Management for license number 2705016403.
2. On March 22, 2000, in the General District Court of the County of Washington, Necessary was convicted of contracting without a valid Virginia contractor's license, a Class 1 misdemeanor, in violation of § 54.1-111.1 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed.
3. On March 22, 2000, in the General District Court of the County of Washington, Necessary was convicted of violating rules and regulations of the Virginia Contractors Board, to wit 18 VAC 50-22-260(B)(8), for failure to use a written contract, a Class 1 misdemeanor, in violation of § 54.1-111.4 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed.
4. Necessary failed to inform the Board in writing, within thirty (30) days, of his Class 1 misdemeanor convictions.

## Conclusion and Recommendation

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

Necessary's actions of having been convicted after initial licensure, regardless of adjudication, in any jurisdiction, of any misdemeanor, there being no appeal pending therefrom or the time of appeal having elapsed, is a violation of Board Regulation 18 VAC 50-22-260(B)(18). However, in light of the penalties imposed by the General District Court of the County of Washington following the March 22, 2000, convictions, I recommend that no monetary penalty be imposed. In addition, I recommend that Necessary successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(19) (Effective May 1, 1999)

Necessary's failure to inform the Board in writing, within 30 days, that the firm, a member of responsible management, its designated employee, or its qualified individual has been convicted of any misdemeanor for activities carried out while engaged in the practice of contracting, is a violation of Board Regulation 18 VAC 50-22-260(B)(19). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 016403 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

**RE: GLOBAL COATINGS AND REMODELING, INC.  
LICENSE NUMBER: 2705 076189**

**FILE NUMBER: 2003-03446**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Sylvester Clay of Global Coatings and remodeling, Inc, on March 12, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and William Paulette, presiding Board Member. No one on behalf of Global Coatings and Remodeling, Inc. appeared at the IFF.

**Background**

On June 10, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received information from Woodrow Murray (Murray) regarding prior and pending legal action involving Sylvester Clay (Clay).

On March 5, 2004, a review of the licensing records of the Board for Contractors revealed Global Coatings and Remodeling Inc. (Global Coatings) was issued Class C Contractor's license number 2705076189 on April 24, 2003. The records further revealed Clay as the Qualified Individual and Responsible Management for license number 2705076189.

**Summation of Facts**

1. On August 11, 1986, in the Circuit Court of the County of Chesterfield, Clay was convicted of four felonies (two counts of Statutory Burglary and two counts of Grand Larceny).
2. On April 17, 2003, the Board for Contractors received a Class C license application for Global Coatings. On the application, Clay was listed as the Qualified Individual and Responsible Management for Global Coatings. Clay signed and certified "that none of the individuals listed on this application have been convicted of any crime in any jurisdiction . . ."

3. In a letter dated September 29, 2003, Clay stated "I have made a mistake and did not review and understand the short form application." Clay indicated he would resubmit an application and disclose the felony conviction.

4. On March 5, 2004, a review of the licensing records of the Board for Contractors revealed Global Coating and Remodeling Inc., t/a Architectural Ceramic Paint, was issued Class B Contractor's license number 2705079750 on September 30, 2003. The records further revealed Clay as the Qualified Individual and Responsible Management for license number 2705079750.

5. On February 5, 2004, the State Corporation Commission (SCC) records indicated Global Coating and Remodeling Inc. changed its name to ACP, Inc. on December 10, 2003. The SCC records further revealed Architectural Ceramic Paint (Richmond City) is a fictitious name for ACP, Inc., effective January 7, 2004.

6. On March 5, 2004, a review of the licensing records of the Board for Contractors revealed Global Coating and Remodeling Inc., t/a Architectural Ceramic Paint, changed its name to ACP Inc., effective January 14, 2004.

#### **Conclusion and Recommendation**

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

Clay's action of furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license for Global Coatings is a violation of Board Regulation 18 VAC 50-22-260(B)(2). Therefore, I recommend that a monetary penalty of \$2,000.00 be imposed along with revocation of license number 2705 076189.

In addition, I would recommend that the Board investigate the relationship between license number 2705 076189 and license number 2705 079750 for the possibility of substantial identity.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

## **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 076189 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

#### **BOARD FOR CONTRACTORS**

**RE: TIMOTHY J. SIMON  
T/A T J'S CONNECTION  
LICENSE NUMBER: 2705 033832**

**FILE NUMBER: 2003-00285**

#### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on May 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Timothy J. Simon, t/a T J's Connection, on March 23, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and William Paulette, presiding Board Member. Neither Timothy J. Simon, nor anyone on behalf of T J's Connection, attended the IFF.

#### ***Background***

On August 5, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation became aware of pending criminal charges against Timothy J. Simon.

On March 9, 2004, a review of the licensing records of the Board for Contractors revealed that Simon was issued Class C Contractor's license number 2705033832 on April 30,

1996. The records further revealed Timothy J. Simon as the Qualified Individual and Responsible Management of license number 2705033832.

### **Summation of Facts**

1. On September 17, 2002, in the Fairfax County General District Court, Timothy J. Simon was convicted failing to perform construction, a misdemeanor, in violation of §18.2-200.1 of the Code of Virginia. *There is no appeal pending and the time for appeal has lapsed.*
2. Simon failed to inform the Board in writing, within thirty (30) days, of Timothy Simon's conviction of a misdemeanor for activities carried out while engaged in the practice of contracting.
3. On September 3, 2003, Investigations Administrator Kevin Hoefft, the Board's agent, made a written request to Simon at the address of record of 3315 Buckeye Lane, Fairfax, Virginia, 22033, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by September 17, 2003.
4. On September 11, 2003, the written request was returned to the Board's agent by the United States Postal Service.
5. On March 8, 2004, Chantilly Postmaster certified the forwarding order for Simon at 3315 Buckeye Lane, Fairfax, Virginia 22033 had expired.
6. On March 9, 2004, a review of the licensing records of the Board for Contractors revealed Simon's address of record was 3315 Buckeye Lane, Fairfax, Virginia, 22033.
7. Simon failed to notify the Board, in writing, within thirty (30) days of a change of address.

### **Conclusion and Recommendation**

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

Simon's action of having been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed, is a violation of Board Regulation 18 VAC 50-22-260(B)(22). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed along with revocation of Simon's license.

Count 2: 18 VAC 50-22-260(B)(23) (Effective September 1, 2001)

Simon's failure to inform the board in writing, within 30 days, that the firm, a member of responsible management, its designated employee, or its qualified individual has pleaded guilty or nolo contedere or was convicted and found guilty of a misdemeanor for activities carried out while engaged in the practice of contracting is a violation of Board Regulation 18 VAC 50-22-260(B)(23). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed.

Count 3: 18 VAC 50-22-230(B) (Effective January 1, 2003)

Simon's failure to notify the board, in writing, of a change of address within 30 days of the change is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend that a monetary penalty of \$200.00 be imposed.

By:

\_\_\_\_\_  
William Paulette  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 033832 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

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

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

1. Name: William Paulette
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on May 11, 2004
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

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

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

WAP

Signature

5-11-04

Date