

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
June 8, 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.

Charles W. Falwell, 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
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Application

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

Participants

1. David E. Conlee
t/a David Conlee Pool Service
File Number 2004-01236 (Disc)

Conlee – R

2. William Burke,
t/a Traditional Construction
File Number 2004-01970 (Disc)

Burke – R
Stephen Fox – R Atty
Anita Burke - W
Bartley & Crystal Gilmore – C

3. Jimmy C. Boykin
t/a Jimmy Christopher Boykin
File Number 2003-02238 (Disc)

Boykin – R (by phone)

The meeting adjourned at 3:35 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

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

**RE: DAVID E. CONLEE
T/A DAVID CONLEE POOL SERVICE
LICENSE NUMBER: 2705 015210**

FILE NUMBER: 2004-01236

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 8, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to David E. Conlee, t/a David Conlee Pool Service, on May 6, 2004. The following individuals participated at the conference: David E. Conlee, Respondent; Jennifer Kazzie, Staff Member; and Charles Falwell, presiding Board Member.

Background

On September 10, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Eddie Harris (Harris), Mecklenburg County Assistant Building Official, regarding a pool installed by David E. Conlee (Conlee), t/a David Conlee Pool Service.

On April 9, 2003, Chris Redman (Redman) purchased an in-ground swimming pool from A & K Emporia, Inc. The purchase order indicated a balance of \$11,000.00.

On April 10, 2003, Redman entered into a written contract with A & K Emporia, Inc., in the amount of \$11,000.00, to install an in-ground swimming pool at Highway 618, Lacrosse, Virginia.

A & K Pool of Emporia subcontracted Conlee to install the in-ground swimming pool at the subject property.

Summation of Facts

1. In April 2003, Conlee installed an in-ground pool in Mecklenburg County without obtaining proper permits.
2. On September 5, 2003, Christopher and Jennifer Redman (the Redmans) obtained building permit number 27089. The permit indicated the contractor was David Conlee, license number 2705015210.
3. In a written response dated September 30, 2003, Conlee stated "Being that I am contracted by A & K Emporia to install the in-ground swimming pool, I was not aware that said permit had not been properly filed, or that it was my responsibility to file said permit. If I had received proper notice that said permit had not been filed, installation would not have proceeded until proof of document was presented."
4. On January 27, 2004, Conlee told Investigator Robert Hansel, the Board's agent, that he was not aware that A & K of Emporia needed a contractor's license since Conlee did all of the work.
5. On April 23, 2004, a review of the licensing records of the Board for Contractors revealed A & K Emporia, Inc. was not a licensed contractor.
6. During the IFF, Conlee testified that he was not aware that the permit obtained by the Redmans indicated that the contractor was Conlee.

Conclusion and Recommendation

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

Conlee's failure to obtain the required building permit prior to the commencement of work constitutes misconduct in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$250.00 be imposed. In addition, I recommend Conlee successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Based upon the record and the information presented at the IFF, it appears that Conlee did not intentionally bypass Regulations and that he believed that A & K Emporia, Inc. had obtained the required permits. However, I do feel that Conlee did have some responsibility to insure that the required permits were pulled prior to commencement of work.

Count 2: 18 VAC 50-22-260(B)(18) (Effective January 1, 2003) (Conlee's action of assisting another to violate any provision of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of the Code of Virginia)

Based upon the record and the information presented at the IFF, it appears that Conlee felt that A & K of Emporia, Inc. were acting as a broker and thus did not require a contractor's license. In this belief, he was not assisting another to violate any provision of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of the Code of Virginia. Therefore, I recommend that this count of the file be closed with a finding of no violation.

By:

Charles Falwell
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 015210 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: WILLIAM B. BURKE
T/A TRADITIONAL CONSTRUCTION
LICENSE NUMBER: 2705 038496**

FILE NUMBER: 2004-01970

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to William B. Burke, t/a Traditional Construction, c/o Stephen K. Fox, Esquire, (Fox) on March 22, 2004. By letter dated April 5, 2004, Fox requested that the matter be rescheduled. By letter dated April 8, 2004, William B. Burke, t/a Traditional Construction c/o Stephen K. Fox, Esquire, was notified that the IFF was rescheduled and would now convene on June 8, 2004. The following individuals participated at the conference: William B. Burke, Respondent; Stephen K. Fox, Attorney for Respondent; Anita Burke, Witness; Bartley and Crystal Gilmore, Complainants; Jennifer Kazzie, Staff Member; and Charles W. Falwell, presiding Board Member.

Background

On November 4, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Bartley and Crystal Gilmore (the Gilmores) regarding a contract entered into with William B. Burke (Burke), t/a Traditional Construction.

On October 23, 2002, the Gilmores received a written proposal from Burke, in the amount of \$215,000.00, to construct a new home at 1012 Potomac Drive, Stafford, Virginia. On December 30, 2002, the Gilmores accepted the proposal and signed the contract.

On April 4, 2003, building permit number 230319 was issued for the construction of a new home at the subject property.

On April 27, 2003, Burke commenced work and poured the foundation.

On October 6, 2003, the Gilmores notified Burke, via facsimile and verbally, that Burke, its employees, and subcontractors were prohibited from entering onto the Gilmores' property. On October 7, 2003, the Gilmores sent Burke a letter, via certified mail, as a formal notice that Burke was prohibited from entering onto the Gilmores' property.

Summation of Facts

1. The contract used by Burke in the transaction failed to contain subsections: (a) when work is to begin and (h) contractor's classifications or specialty services.
2. The contract specified "Your job should take approximately 180 days to complete."
3. The contract further specified "Install $\frac{3}{4}$ " T & G plywood sub-floor glued and nailed." and "One 16 x 8 steel garage door with opener and 2 remotes."
4. The plans indicated a one-door two-car garage with a side door entrance.
5. On May 29, 2003, the Gilmores presented a written change order to Burke for modifications to the original contract. Burke would not sign the written change order.
6. On June 3, 2003, Burke presented a written change order to the Gilmores for modifications to the original contract. The Gilmores would not sign the written change order.
7. On June 16, 2003, the Gilmores asked Burke about the estimated completion of the work. Burke told the Gilmores the estimated completion date was 180 days from a start date of May 1, 2003.
8. On June 19, 2003, Burke sent the Gilmores a letter confirming the estimated completion date would be end of September or beginning of October (180 working days from approximate start date of May 1, 2003).
9. On September 5, 2003, the Gilmores received an August 26, 2003, invoice from Burke for the following additional work and costs:
 - a. 4 foot wide concrete sidewalk, \$100.00;
 - b. water hook up, \$300.00;
 - c. 2 high-hats in bathroom materials and installation, \$200.00;
 - d. upgrade on existing panel. 200 to 400 amp panel, \$119.00;

- e. breakers, \$35.00;
- f. wire (cable), \$25.00;
- g. phone wire, \$20.00; and
- h. 6 hours for running additional phone lines and cable lines. \$35.00 an hour, \$210.00.

The total cost of the extra work and materials was \$1,009.00.

10. The Gilmores noticed the following modifications in the work performed by Burke:
 - Installed ¾” OSB board sub-flooring instead of ¾” tongue and groove plywood;
 - Installed vaulted ceiling in master bedroom instead of tray ceiling;
 - Side door entrance to garage not cut out;
 - 2-door 2-car garage constructed instead of 1-door 2-car garage.
 -
11. Burke failed to obtain written change orders, signed by all parties, for modifications to the contract and plans, including the cost, materials, work to be performed, and estimated completion date.
12. The written change orders and invoice used by Burke indicated the name “Traditional Construction Inc.”
13. The State Corporation Commission records revealed Traditional Construction Inc. became incorporated on July 23, 1997.
14. On March 17, 2004, a review of the licensing records revealed Burke was issued Class A Contractor’s license number 2705038496 on April 22, 1997, as a sole proprietor.
15. On March 17, 2004, a review of the licensing records revealed Traditional Construction Inc. was issued Class A Contractor’s license number 2705080948 on December 11, 2003, as a corporation.
16. Burke failed to operate in the name in which the license was issued.
17. Burke hired Greg Garrison to perform electrical work and Michael Burke to perform HVAC work at the subject property.
18. In a written response dated January 14, 2004, Stephen Fox (Fox), attorney representing Burke, stated the Gilmores “wanted to save costs by using construction personnel who could perform the work in an acceptable manner to pass inspection, irrespective of the status of the licensure.” Fox further stated “In summary, while the Gilmores complain of the Burkes’ use of unlicensed workers, it is a system they ordained and sanctioned to cut costs and finish early on the project. My client acquiesced in this process.”
19. On May 15, 2003, the trusses and floor joist systems were delivered to the subject property. On June 23, 2003, Burke installed the roof trusses.

20. The Gilmores noticed the trusses for the master bedroom were for a vaulted ceiling and not a tray ceiling as specified in the plans. The roof trusses were not according to the plans, which resulted in Burke having to "stick build" trusses. Burke assured the Gilmores that the different trusses were not a problem. Five or six of the trusses built by Burke have broken.

21. On August 21, 2003, the Gilmores contacted County of Stafford Building Official's Office to inquire if the truss repairs were submitted. The Gilmores informed Ray Diezel (Diezel) of the County of Stafford Building Official's Office that there were several trusses broken all the way through multiple times on more than one truss.

22. On September 2, 2003, Diezel inspected the trusses at the subject property. Diezel observed the broken trusses and noted that the broken trusses would need to be repaired. Diezel also observed the stick built trusses were made of white pine instead of yellow pine.

23. On December 17, 2003, Roger Carpenter (Carpenter), Building Official for County of Stafford, issued a notice of violation to Burke for damaged roof trusses at the subject property, in violation of Sections 112.4, 113.1, 113.2, 121.1, 122.2, and 121.2.1 of the Uniform Statewide Building Code (USBC). Carpenter requested Burke replace or repair according to an engineer's design within sixty (60) days.

24. Carpenter hired a third party engineer to inspect the trusses and design the truss repairs. The Gilmores hired another contractor to repair the trusses.

25. Royal Concrete Inc., a subcontractor for Burke, poured the foundation at the subject property on April 27, 2003.

26. On May 20, 2003, the Gilmores paid Burke \$29,672.00 by check, for the first draw. The first draw included \$6,744.00 for footers and foundation walls. On October 16, 2003, the Gilmores received a Notice of Mechanic's Lien from Royal Concrete Inc. Attached to the Mechanic's Lien was an invoice dated September 3, 2003, in the amount of \$2,970.00, for work performed by Royal Concrete Inc. at the subject property. The Release of Lien indicated the original contract amount was \$3,700.00 and that Burke had paid Royal Concrete Inc. \$3,700.00.

Conclusion and Recommendation

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

Burke's failure to make use of a written contract which contains the minimum provisions is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

Mr. Fox testified during the IFF that they are in the process of making revisions to the contract.

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

Burke's failure to make use of written change orders, signed by both the consumer and the licensee or his agent, for modifications to an existing contract is a violation of Board Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

Verbal agreements were worked out between the builder and the owner, which both sides were satisfied with until litigation became evident.

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

Burke's failure to operate under the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(29) (Effective January 1, 2003)

Burke's action of contracting with unlicensed or improperly licensed contractors or subcontractors in the delivery of contracting services is a violation of Board Regulation 18 VAC 50-22-260(B)(29). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed. In addition, I recommend Burke successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 5: 18 VAC 50-22-260(B)(5) (Effective January 1, 2003) (Burke's action of performing work which contains deficiencies, as outlined in the notice of violation issued by Roger Carpenter, Building Official for County of Stafford)

The builder did repairs of the damaged truss to the best of his ability. Apparently, the work was adequate enough to pass inspection. Therefore, I recommend that Count 5 be closed with a finding of no violation.

Count 6: 18 VAC 50-22-260(B)(16) (Effective January 1, 2003) (Burke's action of retaining or misapplying funds paid, for which work is either not performed or performed only in part)

Royal Concrete said that they would wait until the fifth draw was received for their full payment. The lien was placed on the property after the owners stopped the last payment to go into litigation. Therefore, I recommend that Count 6 be closed with a finding of no violation.

By:

Charles W. Falwell
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 038496 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: JIMMY C. BOYKIN
T/A JIMMY CHRISTOPHER BOYKIN
LICENSE NUMBER: 2705 061660**

FILE NUMBER: 2003-02238

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 8, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Jimmy C. Boykin, t/a Jimmy Christopher Boykin, on April 30, 2004. The following individuals participated at the conference: Jimmy C. Boykin, Respondent; by telephone; Jennifer Kazzie, Staff Member; and Charles W. Falwell, presiding Board Member.

Background

On February 21, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Tammy Moore (Moore) regarding a contract entered into with Jimmy C. Boykin (Boykin), t/a Jimmy Christopher Boykin.

On September 22, 2002, Chris and Tammy Moore (the Moores) entered into a written contract with Beach Repair, in the amount of \$14,575.00, to construct a deck and perform bathroom and kitchen renovations at 1460 Gum Bridge Road, Virginia Beach, Virginia. The contract was signed for by Chris Boykin. The contract also indicated an address of 1749 Kitimal Drive, Virginia Beach, Virginia 23457.

On September 22, 2002, the Moores paid Boykin \$14,075.00 in cash. The contract indicated "paid 4/30 \$14,075.00." and \$500.00 owed.

On September 30, 2002, Boykin commenced work.

On January 27, 2004, a review of the licensing records of the Board for Contractors revealed Boykin was issued Class C Contractor's license number 2705061660 on December 11, 2001. The records further revealed the address of record was 1749 Kitimal Drive, Virginia Beach, Virginia 23454.

Summation of Facts

1. Boykin 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.
2. The contract used by Boykin in the transaction failed to contain subsections: (a) when the work is to begin and the estimated completion date, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, and (h) contractor's license number, expiration date, class of license, and classifications or specialty services.
3. As of July 25, 2003, Boykin failed to obtain a required building permit, in violation of Section 109.1 of the Virginia Uniform Statewide Building Code.
4. Boykin failed to properly install the following items:
 - Kitchen - The five foot doors were installed without using a header. This has now caused the roof to start sagging. When the door was installed, no foam was used to insulate between the wall. The trim work was laid right over the gap between the wall and the door, which eventually leaked.
 - Deck - Footings and beams were not laid to code. The deck began to sag and was not very level. The boards were laid crooked. No flashing was installed under the deck.
 - Master bathroom - The vent above the shower was never routed to the outside. Instead, it was left to vent in the attic.
 - Master bedroom - Two closet doors in the master bedroom were hung crooked and need to be planed. The entry door that was installed (replacing a window) is crooked and was installed without a drip pan.
 - Hall bath - Baseboard was not removed before installing the tile.
 - Kitchen - The tile floor was laid without the use of wonder board. The result was the floor cracking on the right side of the kitchen. The tile guys came back to replace the entire floor and lay wonder board. This was laid first by roofing nails, then screws varying lengths apart. The installation of tile in the kitchen was not done to code, which was thin set, then lay the wonder board, then screw every six inches. The tile floor is now cracking on the left side of the kitchen and needs to be redone again. The threshold was not laid because of the varying uneven lengths of the tile and had to be replaced immediately. The tiles on the walls immediately fell off as well as outlets were not properly fitting. The tile floor is now cracking on the left side of the room and again needs replacing.

- Kitchen - The cabinets were installed improperly causing large seams to be exposed. One cabinet cracked during installation. The cabinet next to the fridge was installed upside down.
 - Kitchen - The electrical outlets on the three foot wall do not work.
 - Floors - Paint was spilled, and flecked throughout the hardwood floors in the house and front porch because Boykin failed to use covers during painting.
5. In October 2002, the Moores gave Boykin a list of repairs.
6. The Moores gave Boykin between December 14, 2002 and December 20, 2002, to complete the job to the Moores' satisfaction. On December 15, 2002, Boykin returned to the subject property to perform work; however, this was the last day Boykin performed work at the subject property.
7. In December 2002, Christopher Moore contacted Boykin and told Boykin not to come back to the subject property because of Boykin's lack of performance to complete the job. In January 2003, the Moores hired another contractor to complete the work.
8. Boykin failed to complete the following items:
- i. Master bathroom - Trim work was left undone on the baseboard and window. Dry wall was left incomplete in the shower. Several places of grout are missing.
 - j. Master bedroom - Trim work was missing throughout the room.
 - k. Hall bath - The tile above the shower is still not done.
 - l. Kitchen - Countertops and other pieces to the kitchen, such as mantle and toe kits, were never installed. Trim work not completed.
 - m. Hall closet - Only half the door jamb was replaced.
9. In late October 2002, the Moores requested Boykin refund their money so the Moores could make repairs to the work performed by Boykin. Boykin told the Moores that he did not have any of the money to give back and that his business partner, Donnie Beakman, had half the money and would not refund it either.
10. As of February 19, 2003, Boykin failed to return money received for work not performed or performed in part.
11. In August 2003, the Moores and Boykin entered into a settlement agreement for Boykin to refund \$7,000.00 to the Moores. As of January 27, 2004, the Moores received \$3,500.00 from the insurance company and \$1,000.00 from Boykin. The outstanding balance is \$2,500.00.
12. During the IFF, Boykin testified that he is currently out of work due to surgery on his foot, however, he has made some payments which has decreased the outstanding balance to approximately \$1,800.00.
13. On April 18, 2003, the Board's agent sent a written request to Boykin at the address of record of 1749 Kitimal Drive, Virginia Beach, Virginia, requesting a written response and

supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by May 5, 2003.

14. On January 5, 2004, at 2:24 p.m., the Board's agent attempted to call Boykin at (757) 237-7561, the telephone number listed on the written contract. The Board's agent received a recorded message that the telephone number was non-operable. On January 5, 2004, at 2:24 p.m., the Board's agent attempted to call Boykin at (757) 237-5172, the beeper number listed on the written contract.

15. On January 8, 2004, Virginia Beach London Bridge Station Postmaster certified that mail was delivered to Boykin at 1749 Kitimal Drive, Virginia Beach, Virginia 23454.

16. As of March 22, 2004, Boykin refused or failed to respond to the Board's agent.

Conclusion and Recommendation

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

Boykin's failure to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$400.00 be imposed.

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

Boykin's failure to make use of a written contract which contains the minimum requirements is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$400.00 be imposed. In addition, I recommend Boykin successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

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

Boykin's failure to obtain a required building permit, in violation of Section 109.1 of the Virginia Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$750.00 be imposed. In addition, I recommend Boykin successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 4: 18 VAC 50-22-260(B)(5) (Effective September 1, 2001)

Boykin's negligence and/or incompetence for failing to properly install the items listed under number 4 of the Summation of Facts is a violation of Board Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend that a monetary penalty of \$750.00 and license revocation be imposed.

Count 5: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Boykin's intentional and unjustified failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$1,000.00 and license revocation be imposed.

Count 6: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Boykin's retention or misapplication of funds paid, for which work is either not performed or performed only in part is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Boykin is making regular payments and has reduced the outstanding balance to approximately \$1,800.00.

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

Boykin's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$1,500.00 and license revocation be imposed.

By: _____

Charles W. Falwell
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 061660 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

DRAFT